



AP/17W

PTO/SB/21 (09-04)  
Approved for use through 07/31/2006. OMB 0651-0031  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE  
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

<b>TRANSMITTAL FORM</b>  (to be used for all correspondence after initial filing)	Application Number	10/669,829
	Filing Date	September 24, 2003
	First Named Inventor	Mark A. Stansbury
	Art Unit	3632
	Examiner Name	Anita M. King
Total Number of Pages in This Submission	Attorney Docket Number	NSAC-2

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement  <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers  <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Return Receipt Postcard Response to Notification of Non-Compliant Appeal Brief Appeal Brief with Appendix A, B, and C
Remarks		

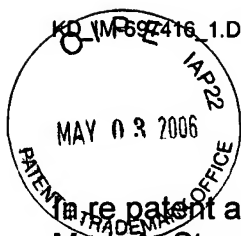
SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT		
Firm Name	Krieg DeVault LLP	
Signature		
Printed name	John H. Allie	
Date	May 1, 2006	Reg. No. 39,088

CERTIFICATE OF TRANSMISSION/MAILING		
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:		
Signature		
Typed or printed name	John H. Allie	Date May 1, 2006

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

BEST AVAILABLE COPY



# IN THE UNITED STATES PATENT OFFICE

re patent application of:  
Mark A. Stansbury

Application No. 10/669,829

Filed September 24, 2003

FURNACE MOUNT AND  
METHOD OF INSTALLATION

) Before the Examiner:  
) Anita M. King  
)  
) Group Art Unit 3632  
)  
) October 31, 2005  
)  
)  
)

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to the Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 on:

May 1, 2006

Date of Deposit

John H. Allie

Name of Registered Representative

[Signature]  
Signature

## RESPONSE TO NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the Notice of Non-Compliant Appeal Brief dated March 31, 2006 please consider the following amended brief to address the matters raised by the Examiner. More specifically, the amended brief includes a revised Claim Appendix, Evidence Appendix and changes to two sub-headings within the brief. Please charge any additional fees which may be due or credit any overpayment to Deposit Account No. 12-2424, but not to include any payment of issue fees.

Respectfully submitted,

[Signature]  
John H. Allie

Reg. No. 39,088

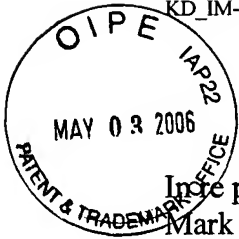
Krieg DeVault LLP

One Indiana Square, Suite 2800

Indianapolis, Indiana 46204-2079

Direct: (317) 238-6268

Fax: (317) 238-6371



# IN THE UNITED STATES PATENT OFFICE

In re patent application of:  
Mark A. Stansbury

Application No. 10/669,829

Filed September 24, 2003

FURNACE MOUNT AND  
METHOD OF INSTALLATION

) Before the Examiner:  
) Anita M. King  
)  
) Group Art Unit 3632  
)  
) October 28, 2005  
)  
)  
)

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to the Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 on:

May 1, 2006  
Date of Deposit

John H. Allie  
Name of Registered Representative

[Signature]  
Signature

## APPEAL BRIEF

Mail Stop Appeal Brief - Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Pursuant to the Notice of Appeal filed with the United States Patent Office on 28 March 2005 in connection with the above-indicated application, an Appeal Brief according to 37 CFR § 41.37 is provided. Also enclosed herewith is a Petition to Request a Five Month Extension of Time to and including October 28, 2005, along with a credit card authorization form for the requisite fee under 37 CFR § 41.20 (b)(2) and 37 CFR § 1.17(a)(3). The Commissioner is authorized to grant any further extensions of time, and charge any deficiency or credit any overpayment to Deposit Account No. 12-2424, but not to include issue fees.

## **I. REAL PARTY IN INTEREST**

Per 37 CFR §41.37(c)(1)(i), NSA LLC is the successor in interest of NSA Corporation and is the real party in interest. NSA Corporation obtained ownership of the present application by written assignment recorded at reel/frame number 012262/0309. NSA has licensed an interest to Bremec Corporation of South Dakota.

## **II. RELATED APPEALS AND INTERFERENCES**

Per 37 CFR §41.37(c)(1)(ii), The applicants, the applicants' legal representative, and the assignee are unaware of any related appeals or interferences which will affect, be directly affected by, or have a bearing on the Appeal Board's decision in the present appeal.

## **III. STATUS OF CLAIMS**

Per 37 CFR §41.37(c)(1)(iii), claims 1, 5-12, 15, 17-22, 26-31, 34, 35, and 40-53 stand rejected, and are all being appealed on the grounds further explained hereinafter. Further, claims 2-4, 13-14, 16, 23-25, 32-33, 36-39 have been canceled. These claims are presented in Appendix A in accordance with 37 CFR §41.37(c)(1)(viii).

## **IV. STATUS OF AMENDMENTS**

Per 37 CFR §41.37(c)(1)(iv), a response was filed subsequent to the Final Office Action with a mailing date of December 27, 2004, This response amended claims 26, 42, 44, and 50 to address informalities set forth in the Final Office Action. Entry of this amendment for the purposes of appeal was indicated in the Advisory Action having a mailing date of April 29, 2005. A Notice of Abandonment dated September 20, 2005 has recently been received for this



application. The Notice of Abandonment is believed to be improper as the Notice of Appeal was filed on March 28, 2005 and the time to file the Appeal Brief including extensions of time under 37 C.F.R. § 1.136 goes to and including October 28, 2005. Therefore, the Notice of Abandonment should be withdrawn by the United States Patent Office.

## **V. SUMMARY OF CLAIMED SUBJECT MATTER**

Per 37 CFR §41.37(c)(1)(v), the following summarization provides a concise explanation of the subject matter defined in each of the independent claims involved in the appeal. This summarization refers to pages 6-12 of the present application and the figure designations of the present application, and all page and line numbers refer to the corresponding text of the present application.

For the purposes of promoting an understanding of the principles of the invention, reference will now be made to the embodiments illustrated in the drawings and specific language will be used to describe the same. It will nevertheless be understood that no limitation of the scope of the invention is thereby intended, such alterations and further modifications in the illustrated device, and such further applications of the principles of the invention as illustrated therein being contemplated as would normally occur to one skilled in the art to which the invention relates.

Beginning with page 6, line 9 of the present application, there is illustrated in Fig. 1 a front view of a typical upflow furnace 10 located on one embodiment of a furnace installation system 11 of the present invention. The furnace installation system 11 is adapted to elevate the furnace 10 from a floor 12. While the present invention will be described with reference to an upflow furnace, it should be understood by one of ordinary skill in the art that the furnace

installation system 11 could be utilized with other types of furnaces and air conditioning equipment.

With reference to Fig. 2 of the present application, there is illustrated a side view of the furnace 10 positioned on the furnace installation system 11. In one embodiment of the present invention the furnace installation system 11 includes a pair of spaced members 13 that are positioned between the bottom surface 20 of the furnace and the floor 12. With reference to Fig. 3, there is illustrated a side view of the furnace 10 positioned on another embodiment of the furnace installation system 21. The furnace installation system 21 includes a member 14 located proximate each of the four corners of the furnace 10. It is contemplated herein that other embodiments of the furnace installation system can contain other quantities of members having different lengths and geometric configurations.

As described on page 7 starting with line 1, there is illustrated in Fig. 4 an enlarged end view of one of the members 13 forming a portion of the furnace installation system 11. The furnace installation system will be described with regards to the installation system 11, however it is understood that it is equally applicable to the other systems contemplated herein. The member 13 includes a floor elevation body member portion 15 and an upstanding attachment member portion 16. The floor elevation body member can be formed as a solid member, a hollow member or other forms provided it has the structural integrity to support the load of the furnace. The member 13 can be formed as a fabricated structure from multiple pieces of material or can be integrally formed as one piece. In one form the member 13 is formed by welding a metal floor elevation body member portion to the upstanding metal member attachment portion. However, in another form the member is integrally formed from a metallic material. The present invention further contemplates that the member can be formed of materials other than metal

including, but not limited to composite materials, polymeric materials, synthetic organic materials and/or plastic. In one form the member is integrally formed of a composite material, a polymeric material, a synthetic material and/or a plastic. The upstanding attachment member portion 16 is secured to the outer surface 22 of the furnace 10. In one form the upstanding attachment member portion 16 is secured to the outer surface 22 by an adhesive material 17. In a preferred form, the upstanding attachment member portion 16 is secured to the outer surface 22 by double-sided tape. The adhesive material 17 can extend along the entire length of the attachment member portion 16 or can extend along only a portion of the attachment member portion 16.

The bottom surface 20 of the furnace 10 rests on a vibration dampening pad 19 that is coupled to the floor elevation body member 15. The vibration dampening pad 19 extending substantially along the upper surface 25 of the body member 15 and is adapted to dampen vibration and noise associated with the furnace 10. In one form, an elastomeric material defines the pad member 19. The elastomeric materials can include, but are not limited to, polymeric materials and rubber.

Continuing on page 8, with line 4, the furnace installation system is coupled to the furnace 10 with the adhesive material 17 and the furnace cabinet rests upon the vibration dampening pads 19. The coupling of the members 13 to the furnace 10 allows for the alignment and/or movement of the furnace 10 without necessitating the repositioning of the members 13. Therefore, in one form of the present invention the furnace can be moved around to position the furnace without having to reset the members holding the furnace off the floor. The members 13 functioning to hold the furnace off of the floor, the vibration dampening pads cushion the furnace cabinet to enhance noise reduction, and the system allows the furnace to be positioned without

having to reposition the members 13.

With reference to Fig. 5, there is illustrated another embodiment of the furnace installation system 110 of the present invention. As previously described for other forms of the present invention the furnace installation system elevates the bottom surface 20 of the furnace 10 from the floor 12. The furnace installation system 110 preferably includes a plurality of furnace mounting blocks 111 positioned between the floor 12 and the bottom surface 20 of the furnace 10. More preferably, the furnace installation system 110 includes one furnace mounting block 111 located at each of the four corners of the furnace 10. However, the present invention contemplates other furnace installation systems including other quantities of furnace mounting blocks 111 and the location and spacing of them around the bottom surface 20 of the furnace.

As described on page 8 at the penultimate line, there is illustrated in Figs. 6-11 one form of the furnace mounting block 111. The furnace mounting block 111 includes a main body member 15 and a surface 116 adapted for abutting the floor and another surface 117 adapted for receiving the furnace 10 thereon. In the present application the surface 117 will be considered to receive the furnace thereon if the furnace directly contacts the surface 117 or if the furnace contacts one or a series of intermediate components/materials/layers that are received on and supported by surface 117. In one form of the present invention the first surface 116 and the second surface 117 are spaced apart at least about 2 inches. However it is understood that the present invention is not limited to surfaces spaced apart by the above dimensions and other spacing are contemplated herein. Further, in one form of the present invention the surfaces 116 and 117 are substantially parallel. However, the surfaces 116 and 117 may be other than parallel and they may be contoured and non-planar to meet the specific requirements of some furnace installations.

The furnace mounting block 111 preferably includes at least one locating portion 120 that is adapted to abut the outer surface 10a of the furnace. The positioning of the locating portion 120 adjacent the outer surface 10a of the furnace 10 causes the surface 117 to be properly located and aligned with the bottom surface 20 of the furnace 10. In one form of the present invention an upstanding member 121 that extends from surface 117 defines the locating portion 120. In a preferred form of the present invention the upstanding member 121 extends substantially perpendicular from the surface 117. In a more preferred form of the present invention the locating portion 120 is defined by a pair of upstanding members 121 that are oriented perpendicular to one another and have bearing surfaces 122 adapted to abut the outer surface 10a of the furnace. The locating portion 120 is designed and constructed to mate with the corner configuration of the furnace. Those of ordinary skill in the art should understand that many furnaces do not have a totally enclosed bottom surface, rather they have a lip formed by the sheet metal furnace cabinet. The sheet metal lip generally extends perpendicular from the outer surface 10a back under the furnace about five-eighths of an inch, however other lip sizes are contemplated herein. The present invention is applicable with all types of furnaces whether they have a total bottom surface or a lip.

Referring to page 10, line 4, in one form of the present invention the furnace mounting block 111 includes an adherent layer/material 125 coupled with at least a portion of surface 117. The adherent layer/material 125 includes an adhesive material on an outer surface that is adapted to stick to the bottom surface 20 of the furnace 10. The adhesive material securely couples the furnace mounting block 111 with the furnace 10. In one form of the present invention the adhesive material is a double backed tape, however other materials such as, but not limited to, glue are contemplated herein. In a preferred form of the present invention a layer of material that

covers the substantial entire surface 117 defines the adherent layer/material 125.

In a more preferred form of the present invention a vibration dampening material 126 is located on and supported by the surface 117. The vibration dampening material 126 may form a part of the adherent layer/material 125 or be positioned between the surface 117 and the adherent layer 125. The vibration dampening material 126 provides for the dampening of vibration and noise that may be transmitted from the furnace to the furnace mounting block 111. The vibration dampening material functions to reduce or eliminate the transmission of noise and/or vibration from the furnace. A layer located on the surface 117 preferably defines the vibration dampening material 126 and in one form has a thickness within the range of about one-eighth to about one fourth of an inch. However, other thicknesses are contemplated herein. Vibration dampening materials suitable for this application include, but are not limited to, an elastomeric material and/or a cork material. A vibration dampening pad having an elastomeric outer layer and a cork inner portion is also contemplated herein. In a preferred form of the present invention the vibration dampening material is formed of cork. The vibration dampening material is preferably connected to the surface 117 and includes the adherent layer/material 125 on its outer surface 126a. The adhesive material is preferably applied in a fashion that allows it to be substantially parallel with the surface 117. In one form of the present invention a removable layer (not illustrated) covers the adhesive material and prevents contamination of the adhesive prior to installation.

Referring to page 11, line 6 there is illustrated in Fig. 9, a side view of one form of the furnace mounting block 111. The furnace mounting block 111 in Fig. 9 has the locating portion 120 extending outwardly from the rest of the main body member 115. The present invention contemplates that the locating portion 120 may be configured to have the same width as the main

body member 115 and not extend outwardly therefrom. Further, the main body member is contemplated as being formed as an integral component or as a multi-part assembled structure. The main body member is preferably formed as an integral component of materials selected from group of metals, composite materials, polymeric materials, synthetic materials and/or plastic. Preferably the main body member is formed of a polymeric material, and the material and structure can withstand the static loads associated with supporting a furnace.

The furnace mounting block 111 and furnace installation system has been described with the aid of the figures. A method of installing a furnace on the mounting blocks 111 will now be set forth. The furnace 10 is raised from the floor 20 so that at least a portion of the bottom surface 20 is clear from the floor 12. If the furnace mounting block 111 includes a protective cover over the adhesive material it must be removed before installation. The furnace mounting block with the adhesive exposed is positioned proximate the bottom surface 20 of the furnace 10. The locating portion 120 of the furnace-mounting block III is brought into an abutting and aligning relationship with the outer surface 10a of the furnace 10. The adhesive surface is brought into contact with the bottom surface 20 of the furnace and adhered to the furnace. The procedure is repeated for each mounting location for the furnace. In a preferred form of the present invention the locating portion 120 is brought into an abutting relationship with each corner adjacent the bottom surface of the furnace. The furnace 10 is then lowered back onto the floor and can be slid into position as desired.

While the invention has been illustrated and described in detail in the drawings and foregoing description, the same is to be considered as illustrative and not restrictive in character, it being understood that only the preferred embodiment has been shown and described and that all changes and modifications that come within the spirit of the invention are desired to be

protected. It should be understood that while the use of the word preferable, preferably or preferred in the description above indicates that the feature so described may be more desirable, it nonetheless may not be necessary and embodiments lacking the same may be contemplated as within the scope of the invention, that scope being defined by the claims that follow. In reading the claims it is intended that when words such as "a," "an," "at least one," "at least a portion" are used there is no intention to limit the claim to only one item unless specifically stated to the contrary in the claim. Further, when the language "at least a portion" and/or "a portion" is used the item may include a portion and/or the entire item unless specifically stated to the contrary.

## **VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

Pursuant to 37 CFR §41.37(c)(1)(vi), review of the following issues are presented in this appeal:

A. The rejection of claims 1, 5-12, 15, 17-20, 26-28, 30, 31, 34, 35, and 40-50 under the judicially created doctrine of obviousness-type double patenting over the claim of the design patent of U.S. Patent No. D465,022 to Stansbury (the Stansbury design patent) in view of the utility patent of U.S. Patent No. 4,842,095 to Rozek (Rozek).

B. The rejection of claims 21, 22, 29, and 51-53 under the judicially created doctrine of obviousness-type double patenting over the claim of the Stansbury design patent in view of Rozek and further in view of the utility patent of U.S. Patent No. 5,799,590 to Noguchi (Noguchi).

C. The rejection of claims 1, 5-12, 15, 17-20, 26-28, 30, 31, 34, and 35 under 35 USC § 103 over U.S. Patent No. 4,721,275 to Benton et al. (Benton) in view of U.S. Patent No. 1,887,283 to Brabson (Brabson) and further in view of Rozek.



D. The rejection of claims 21, 22, 29, and 51-53 under 35 USC § 103 over Noguchi in view of Benton and further in view of Rozek.

E. The rejection of claims 40-50 under 35 USC § 103 over Benton in view of Rozek.

## VII. ARGUMENTS

The following remarks address the different grounds of rejection in accordance with 37 CFR § 41.37(c)(1)(vii).

### A. The Board is Urged to Reverse the First Grounds of Rejection.

1. Allowance of claims 1, 5-12, 15, 17-20, 26-28, 30, 31, 34, 35, and 40-50 is proper without a Terminal disclaimer.

The first ground of rejection is based on the judicially created doctrine of obviousness-type double patenting, and is founded on the claim of the Stansbury design patent in view of United States Patent No. 4,842,095. There is a heavy burden of one seeking to show non-statutory double patenting in the context of utility versus design applications. *Carman Industries, Inc. v. Wahl et al.*, 220 USPQ 481, 487 (CAFC 1983). Indeed, the *Carman* court provided that "[d]ouble patenting is rare in the context of utility versus design patents." *Carman* at 487. Double patenting, as applied between a design and utility patent is founded upon "whether the subject matter of the claims of the patent sought to be invalidated would have been obvious from the subject matter of the claims of the other patent, and vice versa." *Id.* A non-statutory double patenting rejection is only proper if the prior patent claims are not patentability distinct from the application claims, and if the application claims are not patentability distinct from the prior patent claims. *In re Goodman*, 29 USPQ2d 2010, 2016 (CAFC 1993). The analysis is therefore predicated upon a two-way test; the claimed subject matter of each patent must be obvious in light of the subject matter of the other.

The MPEP instructs the Examiner that double patenting rejections are based on a comparison of claims. More specifically, the MPEP instructs that:

any consideration of possible double patenting rejections between a utility application or patent with a design application cannot be based on the utility drawing disclosure alone. (citation omitted)  
The examiner must be able to recreate the design claim from the utility claim without any reliance whatever on the drawings.

MPEP § 1504.06, p 1500-50.

In consideration of the claim of U.S. Patent No. D465,022 it does not follow how this claim can be recreated from the utility claims in the present application. The basic design characteristics of the '022 patent are not present in the utility claims. For example, the '022 patent depicts among the features not found in the utility claims a triangular shape. As the design patent is not an obvious variant of the present utility application there is no reason to address the second prong of the two way double patenting test; whether the utility claims in the present application are obvious variations of the design patent.

Accordingly, imposition of a terminal disclaimer is manifestly unfair and contrary to the applicable standards governing non-statutory double patenting. Reversal of the rejection of claims 1, 5-12, 15, 17-20, 26-28, 30, 31, 34, 35, and 40-50 based on non-statutory double patenting is respectfully requested.

**B. The Board is Urged to Reverse the Second Grounds of Rejection.**

1. Allowance of claims 21, 22, 29, and 51-53 is proper without a Terminal disclaimer.

The second ground of rejection is based on the judicially created doctrine of obviousness-type double patenting, and is founded on the claim of the Stansbury design patent in view of

United States Patent No. 5,799,590 . There is a heavy burden of one seeking to show non-statutory double patenting in the context of utility versus design applications. *Carman Industries, Inc. v. Wahl et al.*, 220 USPQ 481, 487 (CAFC 1983). Indeed, the *Carman* court provided that "[d]ouble patenting is rare in the context of utility versus design patents." *Carman* at 487. Double patenting, as applied between a design and utility patent is founded upon "whether the subject matter of the claims of the patent sought to be invalidated would have been obvious from the subject matter of the claims of the other patent, and vice versa." *Id.* A non-statutory double patenting rejection is only proper if the prior patent claims are not patentability distinct from the application claims, and if the application claims are not patentability distinct from the prior patent claims. *In re Goodman*, 29 USPQ2d 2010, 2016 (CAFC 1993). The analysis is therefore predicated upon a two-way test; the claimed subject matter of each patent must be obvious in light of the subject matter of the other.

The MPEP instructs the Examiner that double patenting rejections are based on a comparison of claims. More specifically, the MPEP instructs that:

any consideration of possible double patenting rejections between a utility application or patent with a design application cannot be based on the utility drawing disclosure alone. (citation omitted)  
The examiner must be able to recreate the design claim from the utility claim without any reliance whatever on the drawings.

MPEP § 1504.06, p 1500-50.

In consideration of the claim of U.S. Patent No. D465,022 it does not follow how this claim can be recreated from the utility claims in the present application. The basic design characteristics of the '022 patent are not present in the utility claims. For example, the '022 patent depicts among the features not found in the utility claims a triangular shape. As the design patent is not an obvious variant of the present utility application there is no reason to

address the second prong of the two way double patenting test; whether the utility claims in the present application are obvious variations of the design patent.

Accordingly, imposition of a terminal disclaimer is manifestly unfair and contrary to the applicable standards governing non-statutory double patenting. Reversal of the rejection of claims 21, 22, 29, and 51-53 based on non-statutory double patenting is respectfully requested.

**C. The Board is Urged to Reverse the Third Grounds of Rejection.**

1. Claims 1, 5-12, 15, 17-20, 26-28, 30, 31, 34, and 35 are nonobvious under 35 USC § 103 over U.S. Patent No. 4,721,275 to Benton et al. (Benton) in view of U.S. Patent No. 1,887,283 to Brabson (Brabson) and further in view of U.S. Patent No. 4,842,095 to Rozek (Rozek).

It is well-settled that a claim is unpatentable under 35 U.S.C. §103 "if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains." 35 U.S.C. §103(a)(Supp. 2004). The seminal case directed to application of 35 U.S.C. §103 is *Graham v. John Deere*, 383 U.S. 1, 17-18, 148 USPQ 459 (1966), from which four familiar factual inquiries have resulted. The first three are directed to prior art evaluation, and the last is directed to secondary considerations. *See*, Manual of Patent Examining Procedure (MPEP) §2141. From these inquiries, the initial burden is on the Examiner to establish *a prima facie* case of obviousness. "First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art

reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure." MPEP §2142 (citing *In re Vaeck*, 20 USPQ2d 1438 (Fed. Cir. 1991)).

In evaluating claims under 35 U.S.C. § 103, the courts have emphasized the statutory language "at the time the invention was made. For it is this phrase that guards against entry into the 'tempting but forbidden zone of hindsight . . .'" *In re Dembiczak*, 50 USPQ2d 1614, 1616 (Fed. Cir. 1999) citing *Loctite Corp. v. Ultraseal Ltd.*, 228 USPQ 90, 98 (Fed. Cir. 1985). "To prevent the use of hindsight based on the invention to defeat patentability of the invention, this court requires the examiner to show a motivation to combine the references that create the case of obviousness." *In re Rouffet*, 47 USPQ2d 1453, 1458 (Fed. Cir. 1998). In order to properly determine whether the invention is patentable under §103 the Examiner's analysis should be "determined from the vantage point of a hypothetical person having ordinary skill in the art to which the patent pertains." *Id.* at 1457. In summary, the Court of Appeals has instructed that "the Board must explain the reasons one of ordinary skill in the art would have been motivated to select the references and to combine them to render the claimed invention obvious." *Id.* Moreover, this explanation needs to be specific. Where a "statement is of a type that gives only general guidance and is not specific as to the particular form of the claimed invention and how to achieve it ... [s]uch a suggestion may make an approach 'obvious to try' but it does not make the invention obvious." *Ex parte Obukowicz*, 27 USPQ2d 1063, 1065 (U.S. Pat. And Trademark Of. Bd. of Pat. App. & Interferences 1993)(citations omitted).

All of the §103 rejections rely on Benton (United States patent No. 4,721,275) to disclose various aspects of the claimed mounts. In Benton, one type of steady leveling device 10 is set

forth in figures 1-4 and another type, a modified steady leveling device 10a, is set forth in figure 5. The steady leveling device 10 of Benton includes a point 32 that "can penetrate through carpet, underlayment and dig into floor underneath (not shown) to stabilize the base 26 of the furniture 12." Benton, col. 2, lines 3-6. It is fair to conclude from Benton that the load of the furniture transfers to the floor through point 32 in order to enhance stability for tall narrow furniture pieces.

In keeping with this concern about the stability of the tall narrow pieces of furniture, the leveling device 10 is securely fixed to the furniture 12 by a plurality of screws 42 that pass through the vertical flange 16 and horizontal flange 18 of the L-shaped bracket 14. The screws 42 penetrate the L-shaped sheet 34, insuring that the leveling device 10 is mechanically connected to and not easily separated from the furniture 12. As a result, each of the screws 42 provides a mechanical pathway from within the furniture 12 to the leveling device 10 to provide a relatively rigid interface -- despite any intervening materials such as sheet 34. In the event of vibrations, the screws 42 would transfer such vibration between the furniture 12 and the leveling device 10. This arrangement undercuts sheet 34 or any other part of device 10 being a vibration dampening component, material, or portion as recited in claims 5-7, 10-12, 15-22, 28-29, 34-35, 41, and 46-53.

With reference to figure 5 of Benton, there is illustrated a cross sectional view of the other type of steady leveling device 10a. The steady leveling device 10a includes a horizontal flange 18a of L-shaped bracket 14a without any type of L-shaped sheet. A mounting screw 54 passes through the horizontal flange 18a and secures the L-shaped bracket 14a to the horizontal surface 46 of the base 26 of the furniture 12. The steady leveling device 10a includes a rack member 64 and thin screw 72 that

are manipulated to drive the mounting screw 54 into the base 26 of the furniture 12. Accordingly, vibration dampening is also thwarted by this arrangement.

All the §103 grounds of rejection rely on the modification of Benton by Rozek. In this modification, the mechanical screw connection of Benton is replaced with an adhesive material of Rozek. Such a replacement undermines the operational goals of Benton to provide a stable base for tall narrow furniture. The patent office recognizes that “[i]f proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification.” Manual of Patent Examining Procedure (MPEP) §2143.01. MPEP §2143.01 also states that “[i]f the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious.”

Moreover, for the device 10, screws 42 are driven through both legs of the L-shaped bracket to secure the device 10 in an approximately orthogonal relationship. Applying the L-shaped bracket 14 to corresponding surfaces of furniture with a structurally appropriate adhesive can be difficult compared to the application of the screws 42 in this manner. For fast-acting adhesives, it is typically desired that the furniture 12 and the bracket 14 be precisely aligned relative to one another at the time of adhesive application to prevent inadvertent adherence to one surface of the bracket 14 before properly contacting the other perpendicular surface of the bracket 14. In contrast, for a slow-acting adhesive the attachment can be more time-intensive compared to the application of the screws because it would typically require application of pressure until set. Also, using an adhesive on only one of the perpendicular surfaces of bracket 14 undermines the joining philosophy of Benton with the screws 42 and otherwise brings into question whether the goal of stable leveling with device 10 could be achieved as intended. As to the steady leveling device 10a, the application of an adhesive in place of



mounting screw 54, or members of the corresponding adjustable rack mechanism, would prevent adjustable leveling -- one of the main aims of Benton. Finally, most adhesives can be difficult to remove when bonded to furniture as compared to screws 42. Thus, many factors discourage the asserted combination of Benton and Rozek as applied in the §103 grounds of rejection. Indeed, substituting an adhesive layer 26 from Rozek for the screw connection appears to be based on hindsight and does not consider the teaching of Benton as a whole.

Page 6 of the Final Office Action states that "[i]t would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the main body member of Benton to include a second upstanding member perpendicular to the first upstanding member (16) because one would have been motivated to provide a means for firmly holding the supported object against movement as taught by Brabson (pg. 2, lines 12-17)." The language of Brabson cited by the Examiner refers to figure 4, which shows the arrangement of four plates 20 that are anchored into the floor by spurs or nodules 23. The anchoring of the four plates 20 will hold the article of furniture against movement. Considering Brabson as a whole, the modification asserted in the Office Action does not follow. Further, the addition of a third screw fastener with the embodiment of Figs. 1-4 and a second screw fastener with the embodiment of Fig. 5 cannot be reconciled. Thus, there are several weaknesses rendering the *prima facie* rejections based on §103 improper.

Even assuming *arguendo* that the *prima facie* case is proper, there is substantial evidence of secondary considerations supporting nonobviousness. "Objective evidence or secondary considerations such as unexpected results, commercial success, long-felt need, failure of others, copying by others, licensing, and skepticism of experts are relevant to the issue of obviousness and must be considered in every case in which they are present." MPEP §2141. The

declarations of Tim Jacobson, Dave Cournoyer, Ron Jackson, Stephen Hutcherson, John Knipe, Gene Lee, Rick Elston, and Jeff Malone filed February 11, 2004 were filed February 11, 2004 in accordance with 37 CFR §1.132 (hereinafter the USER DECLARATIONS). Copies of the USER DECLARATIONS are included in Appendix B attached hereto in accordance with 37 CFR § 41.37(c)(1)(ix). Each of the declarants of the USER DECLARATIONS states that they had never seen a light-weight furnace mounting block system of this type for elevating the furnace from the floor. As to benefits associated with the furnace mounting blocks the declarations provide many including: (1) a significantly enhanced installation; (2) improvement in the installer's work day by eliminating the need to carry heavy masonry blocks to the job site; (3) the ability to slide the furnace on the furnace mounting blocks; and (4) time savings, among other things. These declarants hail from different businesses across the country without a financial interest in present application or its owner. Accordingly, long-felt need, failure of others, and unexpected results can be counted as among the factors supported by such evidence.

In addition, the declaration of Walter Key recites that the inventor, Mark A. Stansbury, has been in the business of selling and servicing heating and air conditioning systems for about 31 years (hereinafter KEY DECLARATION). A copy of the KEY DECLARATION is provided in Appendix B. The KEY DECLARATION further establishes that Mr. Stansbury's appreciation of the need for an improved system for mounting furnaces led to the furnace mounting blocks and systems in the present application, and provides that the commercialized furnace mounting blocks are set forth in the advertisement appended as Exhibit B of the KEY DECLARATION and by figures 5-10 of the present application. The KEY DECLARATION provides that at least 50,000 furnace mounting blocks sold during the 2001 calendar year and that such blocks were of the type being shown in the advertisement in Exhibit B and as set forth in the figures 5-10 of the

present application. In establishing that there were "no extraordinary efforts" -- the KEY DECLARATION provides that some manufacturers' representatives primarily called on wholesalers in the Midwest region of the United States, and that NSA Corporation (the assignee of the present application) spent less than \$12,000 on advertising for the furnace mounting blocks for the years 2001 and 2002 combined.

Also, during the year 2002, The KEY DECLARATION further establishes that Bramec Corporation became an exclusive licensee of furnace mounting blocks as set forth in figures 5-10 of the present application. The Bramec Corporation posted the Furnace Mounting Block on their website and distributed a relatively small number of samples to various wholesalers within the United States. Despite such lackluster efforts, the Bramec Corporation enjoyed sales of about 129,000 units during 2002 and 174,000 units during 2003. Accordingly, among the secondary considerations established by the KEY DECLARATION are commercial success and licensing, which further refutes the rejections under §103.

**D. The Board is Urged to Reverse the Fourth Grounds of Rejection.**

1. Claims 21, 22, 29, and 51-53 are nonobvious under 35 USC § 103 over U.S. Patent No. 5,799,590 (Noguchi) in view of U.S. Patent No. 4,721,275 (Benton) and further in view of U.S. Patent No. 4,842,095 to Rozek (Rozek).

In formulating the rejection of claims 21, 22, 29 and 51-53 the Examiner has utilized the '590 reference to Noguchi to teach a furnace 218 supported by a plurality of mounts 226. The details regarding the mount are asserted to be found by the Examiner in Benton as modified by Rozek. The legal standards for evaluating claims under 35 U.S.C. § 103 for patentability are set forth above in section C.

Each of the §103 rejections rely on Benton (United States patent No. 4,721,275) to disclose various aspects of the claimed mounts. In Benton, one type of steady leveling device 10 is set forth in figures 1-4 and another type, a modified steady leveling device 10a, is set forth in figure 5. The steady leveling device 10 of Benton includes a point 32 that "can penetrate through carpet, underlayment and dig into floor underneath (not shown) to stabilize the base 26 of the furniture 12." Benton, col. 2, lines 3-6. It is fair to conclude from Benton that the load of the furniture transfers to the floor through point 32 in order to enhance stability for tall narrow furniture pieces.

In keeping with this concern about the stability of the tall narrow pieces of furniture, the leveling device 10 is securely fixed to the furniture 12 by a plurality of screws 42 that pass through the vertical flange 16 and horizontal flange 18 of the L-shaped bracket 14. The screws 42 penetrate the L-shaped sheet 34, insuring that the leveling device 10 is mechanically connected to and not easily separated from the furniture 12. As a result, each of the screws 42 provides a mechanical pathway from within the furniture 12 to the leveling device 10 to provide a relatively rigid interface -- despite any intervening materials such as sheet 34. In the event of vibrations, the screws 42 would transfer such vibration between the furniture 12 and the leveling device 10. This arrangement undercuts sheet 34 or any other part of device 10 being a vibration dampening component, material, or portion as recited in claims 5-7, 10-12, 15-22, 28-29, 34-35, 41, and 46-53.

With reference to figure 5 of Benton, there is illustrated a cross sectional view of the other type of steady leveling device 10a. The steady leveling device 10a includes a horizontal flange 18a of L-shaped bracket 14a without any type of L-shaped sheet. A mounting screw 54 passes through the horizontal flange 18a and secures the L-shaped bracket 14a to the horizontal surface 46 of the base 26

of the furniture 12. The steady leveling device 10a includes a rack member 64 and thin screw 72 that are manipulated to drive the mounting screw 54 into the base 26 of the furniture 12. Accordingly, vibration dampening is also thwarted by this arrangement.

All the § 103 grounds of rejection rely on the modification of Benton by Rozek. In this modification, the mechanical screw connection of Benton is replaced with an adhesive material of Rozek. Such a replacement undermines the operational goals of Benton to provide a stable base for tall narrow furniture. The patent office recognizes that “[i]f proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification.” Manual of Patent Examining Procedure (MPEP) § 2143.01. MPEP § 2143.01 also states that “[i]f the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious.”

Moreover, for the device 10, screws 42 are driven through both legs of the L-shaped bracket to secure the device 10 in an approximately orthogonal relationship. Applying the L-shaped bracket 14 to corresponding surfaces of furniture with a structurally appropriate adhesive can be difficult compared to the application of the screws 42 in this manner. For fast-acting adhesives, it is typically desired that the furniture 12 and the bracket 14 be precisely aligned relative to one another at the time of adhesive application to prevent inadvertent adherence to one surface of the bracket 14 before properly contacting the other perpendicular surface of the bracket 14. In contrast, for a slow-acting adhesive the attachment can be more time-intensive compared to the application of the screws because it would typically require application of pressure until set. Also, using an adhesive on only one of the perpendicular surfaces of bracket 14 undermines the joining philosophy of Benton with the screws 42 and otherwise brings into question whether the goal of stable leveling with device 10 could be

achieved as intended. As to the steady leveling device 10a, the application of an adhesive in place of mounting screw 54, or members of the corresponding adjustable rack mechanism, would prevent adjustable leveling -- one of the main aims of Benton. Finally, most adhesives can be difficult to remove when bonded to furniture as compared to screws 42. Thus, many factors discourage the asserted combination of Benton and Rozek as applied in the §103 grounds of rejection. Indeed, substituting an adhesive layer 26 from Rozek for the screw connection appears to be based on hindsight and does not consider the teaching of Benton as a whole.

Even assuming arguendo that the prima facie case is proper, there is substantial evidence of secondary considerations supporting nonobviousness. "Objective evidence or secondary considerations such as unexpected results, commercial success, long-felt need, failure of others, copying by others, licensing, and skepticism of experts are relevant to the issue of obviousness and must be considered in every case in which they are present." MPEP §2141. The declarations of Tim Jacobson, Dave Cournoyer, Ron Jackson, Stephen Hutcherson, John Knipe, Gene Lee, Rick Elston, and Jeff Malone filed February 11, 2004 were filed February 11, 2004 in accordance with 37 CFR §1.132 (hereinafter the USER DECLARATIONS). Copies of the USER DECLARATIONS are included in Appendix B attached hereto in accordance with 37 CFR § 41.37(c)(1)(ix). Each of the declarants of the USER DECLARATIONS states that they had never seen a light-weight furnace mounting block system of this type for elevating the furnace from the floor. As to benefits associated with the furnace mounting blocks the declarations provide many including: (1) a significantly enhanced installation; (2) improvement in the installer's work day by eliminating the need to carry heavy masonry blocks to the job site; (3) the ability to slide the furnace on the furnace mounting blocks; and (4) time savings, among other things. These declarants hail from different businesses across the country without a

financial interest in present application or its owner. Accordingly, long-felt need, failure of others, and unexpected results can be counted as among the factors supported by such evidence.

In addition, the declaration of Walter Key recites that the inventor, Mark A. Stansbury, has been in the business of selling and servicing heating and air conditioning systems for about 31 years (hereinafter KEY DECLARATION). A copy of the KEY DECLARATION is provided in Appendix B. The KEY DECLARATION further establishes that Mr. Stansbury's appreciation of the need for an improved system for mounting furnaces led to the furnace mounting blocks and systems in the present application, and provides that the commercialized furnace mounting blocks are set forth in the advertisement appended as Exhibit B of the KEY DECLARATION and by figures 5-10 of the present application. The KEY DECLARATION provides that at least 50,000 furnace mounting blocks sold during the 2001 calendar year and that such blocks were of the type being shown in the advertisement in Exhibit B and as set forth in the figures 5-10 of the present application. In establishing that there were "no extraordinary efforts" -- the KEY DECLARATION provides that some manufacturers' representatives primarily called on wholesalers in the Midwest region of the United States, and that NSA Corporation (the assignee of the present application) spent less than \$12,000 on advertising for the furnace mounting blocks for the years 2001 and 2002 combined.

Also, during the year 2002, The KEY DECLARATION further establishes that Bramec Corporation became an exclusive licensee of furnace mounting blocks as set forth in figures 5-10 of the present application. The Bramec Corporation posted the Furnace Mounting Block on their website and distributed a relatively small number of samples to various wholesalers within the United States. Despite such lackluster efforts, the Bramec Corporation enjoyed sales of about 129,000 units during 2002 and 174,000 units during 2003. Accordingly, among the secondary

considerations established by the KEY DECLARATION are commercial success and licensing, which further refutes the rejections under §103.

**E. The Board is Urged to Reverse the Fifth Grounds of Rejection.**

1. Claims 40-50 are nonobvious under 35 USC § 103 over U.S. Patent No. U.S. Patent No. 4,721,275 (Benton) in view of U.S. Patent No. 4,842,095 to Rozek (Rozek).

Each of the §103 rejections rely on Benton (United States patent No. 4,721,275) to disclose various aspects of the claimed mounts. In Benton, one type of steady leveling device 10 is set forth in figures 1-4 and another type, a modified steady leveling device 10a, is set forth in figure 5. The steady leveling device 10 of Benton includes a point 32 that "can penetrate through carpet, underlayment and dig into floor underneath (not shown) to stabilize the base 26 of the furniture 12." Benton, col. 2, lines 3-6. It is fair to conclude from Benton that the load of the furniture transfers to the floor through point 32 in order to enhance stability for tall narrow furniture pieces.

In keeping with this concern about the stability of the tall narrow pieces of furniture, the leveling device 10 is securely fixed to the furniture 12 by a plurality of screws 42 that pass through the vertical flange 16 and horizontal flange 18 of the L-shaped bracket 14. The screws 42 penetrate the L-shaped sheet 34, insuring that the leveling device 10 is mechanically connected to and not easily separated from the furniture 12. As a result, each of the screws 42 provides a mechanical pathway from within the furniture 12 to the leveling device 10 to provide a relatively rigid interface -- despite any intervening materials such as sheet 34. In the event of vibrations, the screws 42 would transfer such vibration between the furniture 12 and the leveling device 10. This arrangement undercuts sheet 34 or any other part of device 10 being a vibration



dampening component, material, or portion as recited in claims 5-7, 10-12, 15-22, 28-29, 34-35, 41, and 46-53.

With reference to figure 5 of Benton, there is illustrated a cross sectional view of the other type of steady leveling device 10a. The steady leveling device 10a includes a horizontal flange 18a of L-shaped bracket 14a without any type of L-shaped sheet. A mounting screw 54 passes through the horizontal flange 18a and secures the L-shaped bracket 14a to the horizontal surface 46 of the base 26 of the furniture 12. The steady leveling device 10a includes a rack member 64 and thin screw 72 that are manipulated to drive the mounting screw 54 into the base 26 of the furniture 12. Accordingly, vibration dampening is also thwarted by this arrangement.

All the §103 grounds of rejection rely on the modification of Benton by Rozek. In this modification, the mechanical screw connection of Benton is replaced with an adhesive material of Rozek. Such a replacement undermines the operational goals of Benton to provide a stable base for tall narrow furniture. The patent office recognizes that “[i]f proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification.” Manual of Patent Examining Procedure (MPEP) §2143.01. MPEP §2143.01 also states that “[i]f the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious.”

Moreover, for the device 10, screws 42 are driven through both legs of the L-shaped bracket to secure the device 10 in an approximately orthogonal relationship. Applying the L-shaped bracket 14 to corresponding surfaces of furniture with a structurally appropriate adhesive can be difficult compared to the application of the screws 42 in this manner. For fast-acting adhesives, it is typically desired that the furniture 12 and the bracket 14 be precisely aligned relative to one another at the time of adhesive

application to prevent inadvertent adherence to one surface of the bracket 14 before properly contacting the other perpendicular surface of the bracket 14. In contrast, for a slow-acting adhesive the attachment can be more time-intensive compared to the application of the screws because it would typically require application of pressure until set. Also, using an adhesive on only one of the perpendicular surfaces of bracket 14 undermines the joining philosophy of Benton with the screws 42 and otherwise brings into question whether the goal of stable leveling with device 10 could be achieved as intended. As to the steady leveling device 10a, the application of an adhesive in place of mounting screw 54, or members of the corresponding adjustable rack mechanism, would prevent adjustable leveling -- one of the main aims of Benton. Finally, most adhesives can be difficult to remove when bonded to furniture as compared to screws 42. Thus, many factors discourage the asserted combination of Benton and Rozek as applied in the §103 grounds of rejection. Indeed, substituting an adhesive layer 26 from Rozek for the screw connection appears to be based on hindsight and does not consider the teaching of Benton as a whole.

Even assuming arguendo that the prima facie case is proper, there is substantial evidence of secondary considerations supporting nonobviousness. "Objective evidence or secondary considerations such as unexpected results, commercial success, long-felt need, failure of others, copying by others, licensing, and skepticism of experts are relevant to the issue of obviousness and must be considered in every case in which they are present." MPEP §2141. The declarations of Tim Jacobson, Dave Cournoyer, Ron Jackson, Stephen Hutcherson, John Knipe, Gene Lee, Rick Elston, and Jeff Malone filed February 11, 2004 were filed February 11, 2004 in accordance with 37 CFR §1.132 (hereinafter the USER DECLARATIONS). Copies of the USER DECLARATIONS are included in Appendix B attached hereto in accordance with 37 CFR § 41.37(c)(1)(ix). Each of the declarants of the USER DECLARATIONS states that they had never seen a light-weight furnace

mounting block system of this type for elevating the furnace from the floor. As to benefits associated with the furnace mounting blocks the declarations provide many including: (1) a significantly enhanced installation; (2) improvement in the installer's work day by eliminating the need to carry heavy masonry blocks to the job site; (3) the ability to slide the furnace on the furnace mounting blocks; and (4) time savings, among other things. These declarants hail from different businesses across the country without a financial interest in present application or its owner. Accordingly, long-felt need, failure of others, and unexpected results can be counted as among the factors supported by such evidence.

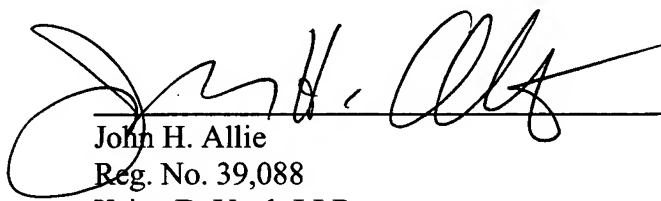
In addition, the declaration of Walter Key recites that the inventor, Mark A. Stansbury, has been in the business of selling and servicing heating and air conditioning systems for about 31 years (hereinafter KEY DECLARATION). A copy of the KEY DECLARATION is provided in Appendix B. The KEY DECLARATION further establishes that Mr. Stansbury's appreciation of the need for an improved system for mounting furnaces led to the furnace mounting blocks and systems in the present application, and provides that the commercialized furnace mounting blocks are set forth in the advertisement appended as Exhibit B of the KEY DECLARATION and by figures 5-10 of the present application. The KEY DECLARATION provides that at least 50,000 furnace mounting blocks sold during the 2001 calendar year and that such blocks were of the type being shown in the advertisement in Exhibit B and as set forth in the figures 5-10 of the present application. In establishing that there were "no extraordinary efforts" -- the KEY DECLARATION provides that some manufacturers' representatives primarily called on wholesalers in the Midwest region of the United States, and that NSA Corporation (the assignee of the present application) spent less than \$12,000 on advertising for the furnace mounting blocks for the years 2001 and 2002 combined.

Also, during the year 2002, The KEY DECLARATION further establishes that Bramec Corporation became an exclusive licensee of furnace mounting blocks as set forth in figures 5-10 of the present application. The Bramec Corporation posted the Furnace Mounting Block on their website and distributed a relatively small number of samples to various wholesalers within the United States. Despite such lackluster efforts, the Bramec Corporation enjoyed sales of about 129,000 units during 2002 and 174,000 units during 2003. Accordingly, among the secondary considerations established by the KEY DECLARATION are commercial success and licensing, which further refutes the rejections under §103.

### VIII. CONCLUSION

The assertion of judicially created doctrine of double patenting based on the claim of the Standsbury design patent is intrinsically flawed. Likewise, the reference combinations asserted under §103 do not establish a *prima facie* case. Moreover, even to the extent a *prima facie* case is hypothetically established, it is soundly rebutted by secondary considerations as evidenced by numerous declarations under 37 C.F.R. §132. Therefore, reversal of the rejection by the Appeal Board is hereby requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John H. Allie", is written over a horizontal line.

John H. Allie  
Reg. No. 39,088  
Krieg DeVault LLP  
One Indiana Square, Suite 2800  
Indianapolis, Indiana 46204-2079  
Direct: (317) 238-6268  
Fax: (317) 636-1507

## **CLAIMS APPENDIX**

1. A mount for supporting a furnace above the floor, comprising:

an integrally formed main body member having a first surface adapted to engage the floor and a second surface spaced from said first surface and adapted to support the furnace above the floor, said main body member including a pair of integrally formed upstanding wall members defining a locator portion to abut an outer surface of the furnace and position the furnace relative to said main body member; and

an adherent component connected with said main body member and located proximate said second surface, said adherent component including an adhesive surface adapted to engage and couple said main body member with the furnace.

5. The mount of claim 1, which further includes a vibration dampening material located on said second surface and adapted to receive the furnace thereon, and wherein said vibration dampening material is defined by an elastomeric material.

6. The mount of claim 1, which further includes a vibration dampening material located on said second surface and adapted to receive the furnace thereon, and wherein said vibration dampening material is defined by a cork material.

7. The mount of claim 1, which further includes a vibration dampening material located on said second surface and adapted to receive the furnace thereon, and wherein said

vibration dampening material is defined by an elastomeric and cork configuration.

8. The mount of claim 1, wherein said adherent component is attached to said second surface, and wherein said adhesive surface is spaced from said second surface.

9. The mount of claim 8, wherein said adhesive surface is substantially parallel with said second surface.

10. The mount of claim 8, wherein said adherent component includes a vibration dampening portion located between said second surface and said adhesive surface.

11. The mount of claim 10, wherein said vibration dampening portion includes an elastomeric material.

12. The mount of claim 10, wherein said vibration dampening portion includes a cork material.

15. A mount for supporting a furnace above the floor, comprising:  
a substantially rigid main body member having a first surface adapted to engage the floor and a second surface spaced from said first surface and adapted to support the furnace above the floor;

a vibration dampening component positioned on and connected with said second surface, said vibration dampening component having an outer adhesive surface adapted to engage and couple said main body member with the furnace; and

wherein said main body member has a locating portion extending from said second surface to abut an outer surface of the furnace and position said second surface relative to the furnace, said locating portion includes two upstanding members that are oriented perpendicular to one another.

17. The mount of claim 15, wherein said vibration dampening component includes an elastomeric material.

18. The mount of claim 15, wherein said vibration dampening component includes a cork material.

19. The mount of claim 15, wherein said main body member supports the furnace about at least 2 inches above the floor.

20. The mount of claim 15, wherein said first and second surfaces are substantially parallel.

21. A combination, comprising:  
a furnace having outer walls that define four corners; and  
a plurality of furnace mounts adapted to hold the furnace above a floor, each of said plurality of mounts located at and abutting the outer walls defining each of said comers, wherein each of said plurality of mounts comprises:  
a substantially rigid main body member having a first surface adapted to engage the floor



and a second surface spaced from said first surface and supporting the furnace above the floor;

a vibration dampening component positioned on and connected with said second surface, said vibration dampening component having an outer adhesive surface coupling said main body member with the furnace; and

wherein said main body member has an integrally formed locating portion extending from said second surface to abut an outer surface of the furnace and position said second surface relative to the furnace.

22. The combination of claim 21, wherein said locating portion engages a corner of the furnace

26. The mount of claim 1, wherein said upstanding wall members extend substantially along two sides of said main body member; and

wherein said adherent component is located on said second surface.

27. The mount of claim 26, wherein said adherent component is attached to said second surface, and wherein said adhesive surface is spaced from said second surface.

28. The mount of claim 15, wherein said two upstanding members are oriented perpendicular to one another, and wherein each of the two upstanding members has a bearing surface adapted to abut the furnace, and wherein said upstanding members are perpendicular to said second surface.

29. The combination of claim 21, wherein each of said plurality of furnace mounts are

coupled to the furnace free of any mechanical fasteners.

30. The mount of claim 1, wherein said main body member has a first vertical length and at least one of said upstanding wall members has a second vertical length, wherein said first vertical length is substantially equal to said second vertical length.

31. The mount of claim 1, wherein said main body member having a first vertical length and at least one of said upstanding wall members having a second vertical length, wherein said first vertical length is greater than said second vertical length.

34. The mount of claim 1, wherein said adherent component including a vibration dampening material, and wherein said adhesive surface spaced from said second surface by said vibration dampening surface

35. The mount of claim 34, wherein the mount is integrally molded of a polymeric material, and wherein the mount is a rigid body which can support the furnace.

40. A mount for supporting a furnace above the floor, comprising:  
a molded integrally formed rigid main body member having a first surface adapted to engage the floor and a second surface spaced from said first surface and adapted to support the furnace above the floor; and

an adherent component connected with said main body member and located proximate said second surface, said adherent component including an adhesive surface adapted to engage and couple said main body member with the furnace.

41. The mount of claim 40, wherein said adherent component includes a vibration dampening portion located between said second surface and said adhesive surface.

42. The mount of claim 40, which further includes means for locating the furnace on said second surface, wherein said means for locating the furnace is adapted to abut the furnace.

43. The mount of claim 40, wherein the mount is formed of a polymeric material.

44. The mount of claim 40, wherein said adherent component includes a vibration dampening portion located between said second surface and said adhesive surface;

which further includes means for locating the furnace on said second surface, wherein said means for locating the furnace is adapted to abut the furnace; and

wherein the mount is formed of a polymeric material.

45. The mount of claim 40, wherein said main body is free of engagement with any mechanical fasteners.

46. A mount for supporting a furnace above the floor, comprising:  
a substantially rigid main body member having a first surface adapted to engage the floor and a second surface spaced from said first surface and adapted to support the furnace above the floor;

a vibration dampening component positioned on and connected with said second surface, said vibration dampening component having an outer adhesive surface adapted to engage and

couple said main body member with the furnace; and

wherein said main body member has a locating portion extending from said second surface to abut an outer surface of the furnace and position said second surface relative to the furnace.

47. The mount of claim 46, wherein said main body is a molded structure.

48. The mount of claim 46, wherein the mount is adapted to be coupled to the furnace free of any mechanical fastener connecting with said main body member.

49. The mount of claim 46, wherein said first and second surfaces are parallel.

50. The mount of claim 46, wherein said main body is molded of a polymeric material;

wherein the mount is adapted to be coupled to the furnace free of any mechanical fastener connecting with said main body member; and wherein said first and second surfaces are parallel.

51. A combination, comprising:

a furnace having outer walls that define four comers; and

a plurality of furnace mounts adapted to hold the furnace above a floor, each of said plurality of mounts located at and abutting the outer walls defining each of said corners, wherein each of said plurality of mounts comprises:

a substantially rigid molded main body member having a first surface adapted to engage the floor and a second surface spaced from said first surface and supporting the furnace above the floor, said main body member is a single piece integrally formed structure including a

locating portion adapted to abut at least one of the outer walls of the furnace; and

a vibration dampening component positioned on and connected with said second surface, said vibration dampening component having an outer adhesive surface coupling said main body member with the furnace.

52. The combination of claim 51, wherein each of said plurality of furnace mounts are coupled to the furnace free of any mechanical fasteners.

53. The combination of claim 51, wherein said first and second surfaces are parallel; and, wherein said main body is a molded of a polymeric material.

## **EVIDENCE APPENDIX**

The material in the Evidence Appendix was hand delivered to the Examiner on February 11, 2004 and made of record by the Examiner.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application:	)
Mark A. Stansbury	) Before the Examiner
	) Naschica Sanders Morrison
Serial No. 10/669,829	)
	) Group Art Unit 3632
Filed September 24, 2003	)
	) Via Hand Delivery
FURNACE MOUNT AND METHOD	)
OF INSTALLATION	) February 11, 2004

**RECEIPT OF HAND DELIVERY OF  
DECLARATION UNDER 37 C.F.R. §1.132 OF WALTER R. KEY**

The undersigned representative from Group Art Unit 3632 has received by hand delivery on February 11, 2004, a Declaration under 37 C.F.R. §1.132 of Walter R. Key. Acknowledgement by the United States Patent Office representative is set forth below.

Date: 2/11/04

Signature: Naschica

Printed Name: NASCHICA MORRISON

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:                     )  
Mark A. Stansbury                                 ) Before the Examiner  
  ) Naschica Sanders Morrison  
  )  
Serial No. 10/669,829                             )  
  ) Group Art Unit 3632  
Filed September 24, 2003                         )  
  )  
FURNACE MOUNT AND                                )  
METHOD OF INSTALLATION                         )

**DECLARATION UNDER 37 C.F.R. §1.132**

I, Walter R. Key, hereby declare as follows:

1. I am the Managing Member of NSA LLC, which is the successor in interest of NSA Corporation (hereinafter NSA). NSA is the assignee of U. S. Patent Application No. 10/669,829 (hereinafter "STANSBURY APPLICATION") that is a continuation of U. S. Patent Application No. 09/941,524 attached as Exhibit A. I have about fourteen years of experience in running companies related to the development and/or manufacture and/or sale and/or servicing of heating and air conditioning products.
2. Mark A. Stansbury, the inventor in the STANSBURY APPLICATION, has been in the business of selling and/or servicing heating and air conditioning systems for about thirty-one years. Mr. Stansbury appreciated that there was a need for an improved system for mounting furnaces. This appreciation of a long-felt but unmet need led to the inspiration for the Furnace Mounting Blocks and system set forth in the STANSBURY APPLICATION.
3. NSA the assignee of the STANSBURY APPLICATION was founded on or about August 1, 2001, to commercialize the Furnace Mounting Blocks associated with the STANSBURY APPLICATION. The Furnace Mounting Blocks commercialized by NSA are shown in an early advertisement in Exhibit B and further set forth in drawings



5-10 of the STANSBURY APPLICATION. The undersigned wishes to clarify that the vibration-absorbing pad is now an elastomeric material.

4. During the 2001 calendar year, the Furnace Mounting Blocks were introduced to the market by NSA. At least fifty thousand Furnace Mounting Blocks were sold during the 2001 calendar year through heating and air conditioning wholesalers throughout the United States. Various manufacturers' representatives promoted the Furnace Mounting Blocks product for NSA by calling on wholesalers in the United States. These manufacturers' representatives primarily called on wholesalers located in the Midwest region of the United States. No extraordinary efforts were made by NSA to market or promote the sale of the Furnace Mounting Blocks shown in an early advertisement in Exhibit B and further set forth in drawings 5-10 of the STANSBURY APPLICATION.
5. During the 2002 calendar year, Bramec Corporation of South Dakota entered into an exclusive licensing agreement with NSA to manufacture and distribute the Furnace Mounting Blocks set forth in Exhibit-B and in drawings 5-10 of the STANSBURY APPLICATION. Bramec Corporation is a master distributor and manufacturer of products for the air conditioning, heating, plumbing, and refrigeration industries. It is generally recognized that Bramec Corporation is one of the major players in this industry. During the 2002 calendar year, the commercialization of the Furnace Mounting Blocks by NSA and under the license agreement with Bramec Corporation resulted in sales of about 129,000 Furnace Mounting Blocks.
6. During the 2003 calendar year, Bramec Corporation under the exclusive licensing agreement with NSA manufactured and distributed the Furnace Mounting Blocks set forth in Exhibit B and in drawings 5-10 of the STANSBURY APPLICATION. During the 2003 calendar year, the commercialization of the licensed Furnace Mounting Blocks by Bramec Corporation resulted in sales of about 174,000 Furnace Mounting Blocks.
7. NSA spent less than \$12,000 on advertising for the Furnace Mounting Blocks for the years 2001 and 2002 combined. The advertising included the preparation, printing and mailing of a mass mailing to wholesalers, an advertisement in a quarterly HVACR

Distribution News, and two advertisements in an Indiana Contractors Magazine. NSA has spent no further on advertising the Furnace Mounting Block.

8. Bramec Corporation has posted the Furnace Mounting Block on their Web site and distributed a relatively small number of samples to various wholesalers within the United States. The undersigned is unaware of any further substantial advertising activity by Bramec Corporation.
9. The sales volume of the Furnace Mounting Blocks during the introductory 2001 calendar year by NSA, the industry recognition exhibited by Bramec Corporation seeking and entering into a license agreement with NSA, and the ensuing sales volume during calendar year 2002 by NSA and Bramec Corporation of the licensed product support that a significant need is being satisfied by the Furnace Mounting Blocks. The continued growth in sales volume during calendar year 2003 by Bramec Corporation is further evidence that this product is satisfying a significant need.
10. The sales volumes reflected herein are for Furnace Mounting Blocks that were sold by themselves and were not packaged with other products. The Furnace Mounting Blocks are not packaged or combined with other products in a package deal. The sales volumes do not include any sales to affiliates or related companies.
11. The undersigned has included herewith in Exhibit C the Declarations of independent parties as to their opinion of the Furnace Mounting Block and the many benefits associated with the items. Each of the Declarants is not employed by and/or does not have any financial interest in NSA, Bramec Corporation, the Furnace Mounting Blocks invention and/or the STANSBURY APPLICATION.
12. NSA's only business relationship with Bramec Corporation is the exclusive license agreement that the Furnace Mounting Blocks are made and sold under. NSA and/or its principals have no other business relationship with Bramec Corporation.

13. I am familiar with U. S. Patents and have performed a careful review of the STANSBURY APPLICATION and the Furnace Mounting Blocks as exhibited in Exhibit B and set forth in the text and figure 5-10 of the STANSBURY APPLICAATION. As set forth above the undersigned wishes to clarify that the vibration-absorbing pad is now an elastomeric material. It is my opinion that the commercialized Furnace Mounting Blocks and related systems are covered by one or more claims, including at least claims 15-17 and 19-25.
14. The undersigned, being hereby warned that willful false statements or the like so made are punishable by fine or imprisonment or both, under 18 U.S.C. §1001, and that willful false statements may jeopardize the validity of the application or any patent issuing thereon, declares that the facts set forth in this declaration are true, all statement made of his own knowledge are true, and all statements made on information or belief are believed to be true.

Walter R Key  
Walter R. Key

2/10/04  
Date

## **FURNACE MOUNT AND METHOD OF INSTALLATION**

The present application claims the benefit of United States Provisional Application No. 60/264,955 filed January 30, 2001 and incorporated herein by reference.

### **BACKGROUND OF THE INVENTION**

The present invention relates generally to a method and apparatus for supporting a furnace. More particularly, the present invention has one form wherein a plurality of furnace mounting blocks are adhered to the bottom of the furnace and maintain the furnace in a position off of the floor.

It is well known that furnaces are conventionally utilized to deliver heated air through a furnace duct system to heat registers located throughout the house. The furnaces are generally raised off of the floor to avoid being exposed to moisture and the associated rusting of the furnace cabinet. In one prior technique of raising the furnace off the floor, the installation technicians have utilized masonry blocks which are slid under the furnace and function to raise the furnace above the floor's surface. The prior technique does not provide for any vibration dampening between the furnace cabinet and the masonry block holding the furnace above the floor. Therefore, the vibration and noise is transmitted from the cabinet to the floor. Further, the masonry blocks are physically heavy and do not allow for the sliding into place of the furnace while seated on the masonry blocks.

Heretofore, there has been a need for a lightweight furnace mounting block system for elevating the furnace from the floor and minimizing the transmission of vibration and noise. The

Express Mail Label No.: EL271152248US

means for satisfying this need has escaped those skilled in the art. The present invention satisfies this need in a novel and unobvious way.

## SUMMARY OF THE INVENTION

One form of the present invention contemplates a mount for supporting a furnace above the floor. The mount comprising: a main body member having a first surface adapted to engage the floor and a second surface spaced from the first surface and adapted to support the furnace above the floor; and, an adherent component connected with the main body member and located proximate the second surface, the adherent component including an adhesive surface adapted to engage and couple the main body member with the furnace.

Another form of the present invention contemplates a mount for supporting a furnace above the floor, comprising: a substantially rigid main body member having a first surface adapted to engage the floor and a second surface spaced from the first surface and adapted to support the furnace above the floor; a vibration dampening component positioned on and connected with the second surface, the vibration dampening component having an outer adhesive surface adapted to engage and couple the main body member with the furnace; and, wherein the main body member has a locating portion extending from the second surface to abut an outer surface of the furnace and position the second surface relative to the furnace.

Yet another form of the present invention contemplates a combination, comprising: a furnace; and, a plurality of furnace mounts adapted to hold the furnace above a floor, each of the plurality of mounts comprising: a substantially rigid main body member having a first surface adapted to engage the floor and a second surface spaced from the first surface and adapted to support the furnace above the floor; a vibration dampening component positioned on and connected with the second surface, the vibration dampening component having an outer adhesive surface adapted to engage and couple the main body member with the furnace; and wherein the

main body member has a locating portion extending from the second surface to abut an outer surface of the furnace and position the second surface relative to the furnace.

In yet another form of the present invention there is contemplated a method for supporting a furnace above the floor. The method, comprising: providing a furnace mounting block having an adhesive surface and a locating feature; lifting the furnace to place at least a portion of a bottom surface of the furnace off of the floor; positioning the furnace mounting block adjacent the bottom surface of the furnace and abutting the locating feature against an outer surface of the furnace; and, adhering the adhesive surface to the bottom surface of the furnace.

One object of the present invention is to provide a unique furnace mounting system.

Related objects and advantages of the present invention will be apparent from the following description.

## BRIEF DESCRIPTION OF THE DRAWINGS

Fig. 1 is an end view of a typical furnace positioned on one embodiment of the furnace mounting blocks of the present invention.

Fig. 2 is a side elevational view of the furnace positioned on the furnace mounting blocks of Fig. 1.

Fig. 3 is a side elevational view of a typical furnace positioned on an alternative embodiment of the furnace mounting blocks of the present invention.

Fig. 4 is an enlarged partial view of Fig. 1, comprising the furnace coupled with the furnace mounting blocks.

Fig. 5 is an end view of a typical furnace mounted on another embodiment of the furnace mounting blocks of the present invention.

Fig. 6 is a perspective view of the furnace mounting block comprising a portion of Fig. 5.

Fig. 7 is an enlarged partially fragmented view of Fig. 5 showing the coupling of the furnace mounting block to the furnace.

Fig. 8 is a front elevational view of the furnace mounting block of Fig. 6.

Fig. 9 is a side elevational view of the furnace mounting block of Fig. 6.

Fig. 10 is a top plan view of the furnace mounting block of Fig. 6.



## DESCRIPTION OF THE PREFERRED EMBODIMENTS

For the purposes of promoting an understanding of the principles of the invention, reference will now be made to the embodiments illustrated in the drawings and specific language will be used to describe the same. It will nevertheless be understood that no limitation of the scope of the invention is thereby intended, such alterations and further modifications in the illustrated device, and such further applications of the principles of the invention as illustrated therein being contemplated as would normally occur to one skilled in the art to which the invention relates.

With reference to Fig. 1, there is illustrated a front view of a typical upflow furnace 10 located on one embodiment of a furnace installation system 11 of the present invention. The furnace installation system 11 is adapted to elevate the furnace 10 from a floor 12. While the present invention will be described with reference to an upflow furnace, it should be understood by one of ordinary skill in the art that the furnace installation system 11 could be utilized with other types of furnaces and air conditioning equipment.

With reference to Fig. 2, there is illustrated a side view of the furnace 10 positioned on the furnace installation system 11. In one embodiment of the present invention the furnace installation system 11 includes a pair of spaced members 13 that are positioned between the bottom surface 20 of the furnace and the floor 12. With reference to Fig. 3, there is illustrated a side view of the furnace 10 positioned on another embodiment of the furnace installation system 21. The furnace installation system 21 includes a member 14 located proximate each of the four corners of the furnace 10. It is contemplated herein that other embodiments of the furnace installation system can contain other quantities of members having different lengths and geometric configurations.

With reference to Fig. 4, there is illustrated an enlarged end view of one of the members 13 forming a portion of the furnace installation system 11. The furnace installation system will be described with regards to the installation system 11, however it is understood that it is equally applicable to the other systems contemplated herein. The member 13 includes a floor elevation body member portion 15 and an upstanding attachment member portion 16. The floor elevation body member can be formed as a solid member, a hollow member or other forms provided it has the structural integrity to support the load of the furnace. The member 13 can be formed as a fabricated structure from multiple pieces of material or can be integrally formed as one piece. In one form the member 13 is formed by welding a metal floor elevation body member portion to the upstanding metal member attachment portion. However, in another form the member is integrally formed from a metallic material. The present invention further contemplates that the member can be formed of materials other than metal including, but not limited to, composite materials, polymeric materials, synthetic organic materials and/or plastic. In one form the member is integrally formed of a composite material, a polymeric material, a synthetic material and/or a plastic. The upstanding attachment member portion 16 is secured to the outer surface 22 of the furnace 10. In one form the upstanding attachment member portion 16 is secured to the outer surface 22 by an adhesive material 17. In a preferred form, the upstanding attachment member portion 16 is secured to the outer surface 22 by double-sided tape. The adhesive material 17 can extend along the entire length of the attachment member portion 16 or can extend along only a portion of the attachment member portion 16.

The bottom surface 20 of the furnace 10 rests on a vibration dampening pad 19 that is coupled to the floor elevation body member 15. The vibration dampening pad 19 extending substantially along the upper surface 25 of the body member 15 and is adapted to dampen

vibration and noise associated with the furnace 10. In one form, an elastomeric material defines the pad member 19. The elastomeric materials can include, but are not limited to, polymeric materials and rubber.

The furnace installation system is coupled to the furnace 10 with the adhesive material 17 and the furnace cabinet rests upon the vibration dampening pads 19. The coupling of the members 13 to the furnace 10 allows for the alignment and/or movement of the furnace 10 without necessitating the repositioning of the members 13. Therefore, in one form of the present invention the furnace can be moved around to position the furnace without having to reset the members holding the furnace off the floor. The members 13 functioning to hold the furnace off of the floor, the vibration dampening pads cushion the furnace cabinet to enhance noise reduction, and the system allows the furnace to be positioned without having to reposition the members 13.

With reference to Fig. 5, there is illustrated another embodiment of the furnace installation system 110 of the present invention. As previously described for other forms of the present invention the furnace installation system elevates the bottom surface 20 of the furnace 10 from the floor 12. The furnace installation system 110 preferably includes a plurality of furnace mounting blocks 111 positioned between the floor 12 and the bottom surface 20 of the furnace 10. More preferably, the furnace installation system 110 includes one furnace mounting block 111 located at each of the four corners of the furnace 10. However, the present invention contemplates other furnace installation systems including other quantities of furnace mounting blocks 111 and the location and spacing of them around the bottom surface 20 of the furnace.

With reference to Figs. 6-11, there is illustrated one form of the furnace mounting block 111. The furnace mounting block 111 includes a main body member 115 and a surface 116

adapted for abutting the floor and another surface 117 adapted for receiving the furnace 10 thereon. In the present application the surface 117 will be considered to receive the furnace thereon if the furnace directly contacts the surface 117 or if the furnace contacts one or a series of intermediate components/materials/layers that are received on and supported by surface 117. In one form of the present invention the first surface 116 and the second surface 117 are spaced apart at least about 2 inches. However it is understood that the present invention is not limited to surfaces spaced apart by the above dimensions and other spacing are contemplated herein. Further, in one form of the present invention the surfaces 116 and 117 are substantially parallel. However, the surfaces 116 and 117 may be other than parallel and they may be contoured and non-planar to meet the specific requirements of some furnace installations.

The furnace mounting block 111 preferably includes at least one locating portion 120 that is adapted to abut the outer surface 10a of the furnace. The positioning of the locating portion 120 adjacent the outer surface 10a of the furnace 10 causes the surface 117 to be properly located and aligned with the bottom surface 20 of the furnace 10. In one form of the present invention an upstanding member 121 that extends from surface 117 defines the locating portion 120. In a preferred form of the present invention the upstanding member 121 extends substantially perpendicular from the surface 117. In a more preferred form of the present invention the locating portion 120 is defined by a pair of upstanding members 121 that are oriented perpendicular to one another and have bearing surfaces 122 adapted to abut the outer surface 10a of the furnace. The locating portion 120 is designed and constructed to mate with the corner configuration of the furnace. Those of ordinary skill in the art should understand that many furnaces do not have a totally enclosed bottom surface, rather they have a lip formed by the sheet metal furnace cabinet. The sheet metal lip generally extends perpendicular from the outer surface

10a back under the furnace about  $\frac{3}{8}$  inches, however other lip sizes are contemplated herein.

The present invention is applicable with all types of furnaces whether they have a total bottom surface or a lip.

In one form of the present invention the furnace mounting block 111 includes an adherent layer/material 125 coupled with at least a portion of surface 117. The adherent layer/material 125 includes an adhesive material on an outer surface that is adapted to stick to the bottom surface 20 of the furnace 10. The adhesive material securely couples the furnace mounting block 111 with the furnace 10. In one form of the present invention the adhesive material is a double backed tape, however other material such as, but not limited to, glue are contemplated herein. In a preferred form of the present invention a layer of material that covers the substantial entire surface 117 defines the adherent layer/material 125.

In a more preferred form of the present invention a vibration dampening material 126 is located on and supported by the surface 117. The vibration dampening material 126 may form a part of the adherent layer/material 125 or be positioned between the surface 117 and the adherent layer 125. The vibration dampening material 117 provides for the dampening of vibration and noise that may be transmitted from the furnace to the furnace mounting block 111. The vibration dampening material functioning to reduce or eliminate the transmission of noise and/or vibration from the furnace. A layer located on the surface 117 preferably defines the vibration dampening material 117 and in one form has a thickness within the range of about  $\frac{1}{8}$  to about  $\frac{1}{4}$  inches. However, other thicknesses are contemplated herein. Vibration dampening materials suitable for this application include, but are not limited to, an elastomeric material and/or a cork material. A vibration dampening pad having an elastomeric outer layer and a cork inner portion is also contemplated herein. In a preferred form of the present invention the vibration dampening

material is formed of cork. The vibration dampening material is preferably connected to the surface 117 and includes the adherent layer/material 125 on it's outer surface 126a. The adhesive material is preferably applied in a fashion that allows it to be substantially parallel with the surface 117. In one form of the present invention a removable layer (not illustrated) covers the adhesive material and prevents contamination of the adhesive prior to installation.

With reference to Fig. 9, there is illustrated a side view of one form of the furnace mounting block 111. The furnace mounting block 111 in Fig. 9 has the locating portion 120 extending outwardly from the rest of the main body member 115. The present invention contemplates that the locating portion 120 may be configured to have the same width as the main body member 115 and not extend outwardly therefrom. Further, the main body member is contemplated as being formed as an integral component or as a multi-part assembled structure. The main body member is preferably formed as an integral component of materials selected from a group of metals, composite materials, polymeric materials, synthetic materials and/or plastic. Preferably the main body member is formed of a polymeric material, and the material and structure can withstand the static loads associated with supporting a furnace.

The furnace mounting block 111 and furnace installation system has been described with the aid of the figures. A method of installing a furnace on the mounting blocks 111 will now be set forth. The furnace 10 is raised from the floor 20 so that at least a portion of the bottom surface 20 is clear from the floor 12. If the furnace mounting block 111 includes a protective cover over the adhesive material it must be removed before installation. The furnace mounting block with the adhesive exposed is positioned proximate the bottom surface 20 of the furnace 10. The locating portion 120 of the furnace mounting block 111 is brought into an abutting and aligning relationship with the outer surface 10a of the furnace 10. The adhesive surface is

brought into contact with the bottom surface 20 of the furnace and adhered to the furnace. The procedure is repeated for each mounting location for the furnace. In a preferred form of the present invention the locating portion 120 is brought into an abutting relationship with each corner adjacent the bottom surface of the furnace. The furnace 10 is then lowered back onto the floor and can be slid into position as desired.

While the invention has been illustrated and described in detail in the drawings and foregoing description, the same is to be considered as illustrative and not restrictive in character, it being understood that only the preferred embodiment has been shown and described and that all changes and modifications that come within the spirit of the invention are desired to be protected. It should be understood that while the use of the word preferable, preferably or preferred in the description above indicates that the feature so described may be more desirable, it nonetheless may not be necessary and embodiments lacking the same may be contemplated as within the scope of the invention, that scope being defined by the claims that follow. In reading the claims it is intended that when words such as "a," "an," "at least one," "at least a portion" are used there is no intention to limit the claim to only one item unless specifically stated to the contrary in the claim. Further, when the language "at least a portion" and/or "a portion" is used the item may include a portion and/or the entire item unless specifically stated to the contrary.

What is claimed is:

1. A mount for supporting a furnace above the floor, comprising:  
a main body member having a first surface adapted to engage the floor and a second surface spaced from said first surface and adapted to support the furnace above the floor; and  
an adherent component connected with said main body member and located proximate said second surface, said adherent component including an adhesive surface adapted to engage and couple said main body member with the furnace.
2. The mount of claim 1, wherein said main body member includes a locating portion adapted to abut the furnace and align said second surface under the furnace.
3. The mount of claim 2, wherein said locating portion includes an upstanding member extending substantially perpendicular from said second surface.
4. The mount of claim 2, wherein said adherent component is located on said upstanding member, and which further includes a vibration dampening material located on said second surface and adapted to receive the furnace thereon.
5. The mount of claim 4, wherein said vibration dampening material is defined by an elastomeric material.
6. The mount of claim 4, wherein said vibration dampening material is defined by a cork material.



7. The mount of claim 4, wherein said vibration dampening material is defined by an elastomeric and cork configuration.
8. The mount of claim 1, wherein said adherent component is attached to said second surface, and wherein said adhesive surface is spaced from said second surface.
9. The mount of claim 8, wherein said adhesive surface is substantially parallel with said second surface.
10. The mount of claim 8, wherein said adherent component includes a vibration dampening portion located between said second surface and said adhesive surface.
11. The mount of claim 10, wherein said vibration dampening portion includes an elastomeric material.
12. The mount of claim 10, wherein said vibration dampening portion includes a cork material.
13. The mount of claim 10, wherein said vibration dampening portion includes a vibration dampening pad.
14. The mount of claim 1, wherein said first surface and said second surface are substantially parallel, and wherein said second surface is spaced from said first surface at least about 2 inches.

15. A mount for supporting a furnace above the floor, comprising:

a substantially rigid main body member having a first surface adapted to engage the floor and a second surface spaced from said first surface and adapted to support the furnace above the floor;

a vibration dampening component positioned on and connected with said second surface, said vibration dampening component having an outer adhesive surface adapted to engage and couple said main body member with the furnace; and

wherein said main body member has a locating portion extending from said second surface to abut an outer surface of the furnace and position said second surface relative to the furnace.

16. The mount of claim 15, wherein said locating portion is defined by two upstanding members that are oriented perpendicular to one another, and wherein each of the two upstanding members has a bearing surface adapted to abut the furnace.

17. The mount of claim 15, wherein said vibration dampening component includes an elastomeric material.

18. The mount of claim 15, wherein said vibration dampening component includes a cork material.

19. The mount of claim 15, wherein said main body member supports the furnace about at least 2 inches above the floor.
20. The mount of claim 15, wherein said first and second surfaces are substantially parallel.
21. A combination, comprising:  
a furnace; and  
a plurality of furnace mounts adapted to hold the furnace above a floor, each of said plurality of mounts comprising:  
a substantially rigid main body member having a first surface adapted to engage the floor and a second surface spaced from said first surface and adapted to support the furnace above the floor;  
a vibration dampening component positioned on and connected with said second surface, said vibration dampening component having an outer adhesive surface adapted to engage and couple said main body member with the furnace; and  
wherein said main body member has a locating portion extending from said second surface to abut an outer surface of the furnace and position said second surface relative to the furnace.
22. The combination of claim 21, wherein said locating portion is configured to engage a corner of the furnace
23. A method for supporting a furnace above the floor, comprising:

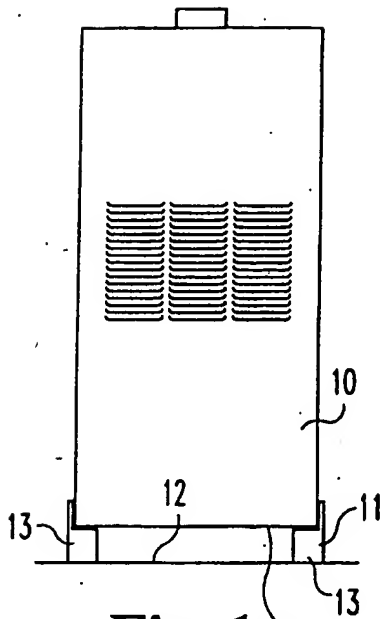
providing a furnace mounting block having an adhesive surface and a locating feature;  
lifting the furnace to place at least a portion of a bottom surface of the furnace off of the floor;  
positioning the furnace mounting block adjacent the bottom surface of the furnace and abutting the locating feature against an outer surface of the furnace; and  
adhering the adhesive surface to the bottom surface of the furnace.

24. The method of claim 23, which further includes providing a plurality of furnace mounting blocks, and which further includes repeating said positioning and said adhering for each corner adjacent the bottom surface of the furnace.

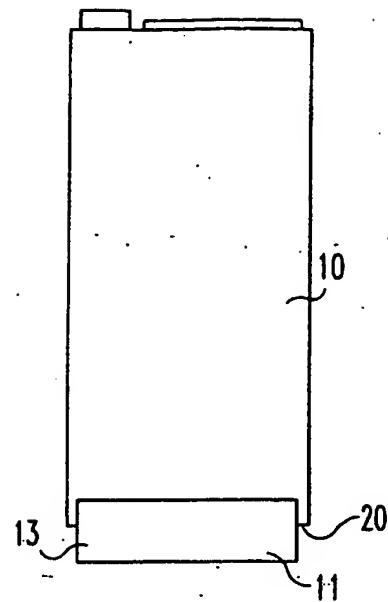
25. The method of claim 24, which further includes sliding the furnace across the floor on the mounting blocks while the mounting blocks are adhered to the bottom surface of the furnace.

### **ABSTRACT OF THE DISCLOSURE**

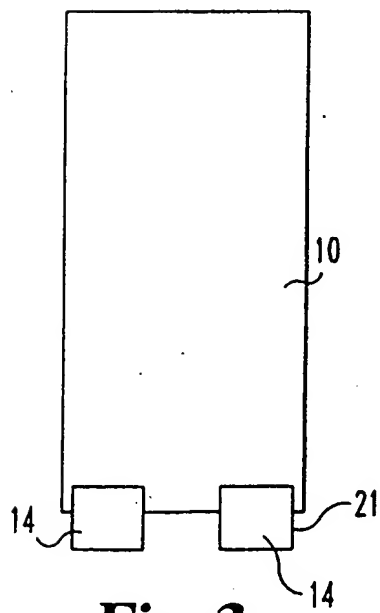
A furnace mounting system to elevate the furnace above the floor. In one form the furnace mounting system includes a furnace mounting block including a vibration dampening feature to prevent the transmission of noise and vibration from the furnace to the mounting block. The furnace mounting block includes a locating feature and is adhered to the bottom surface of the furnace.



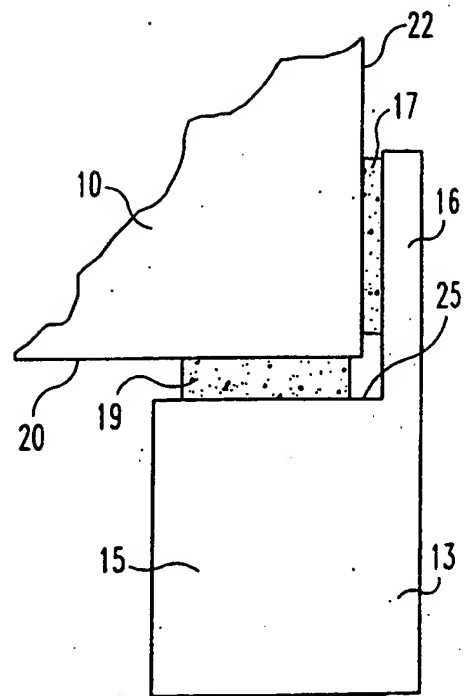
**Fig. 1**



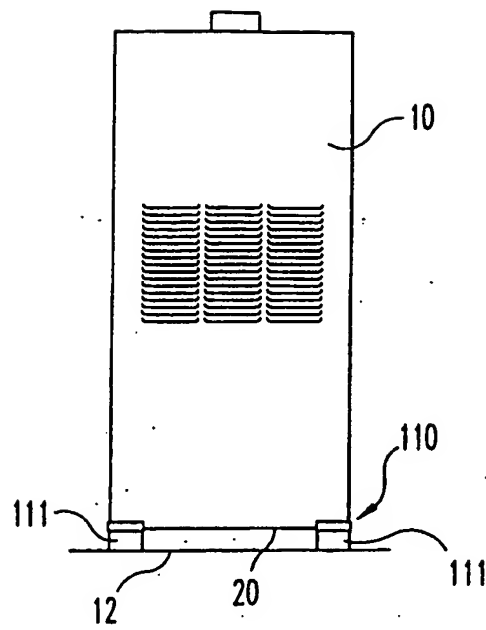
**Fig. 2**



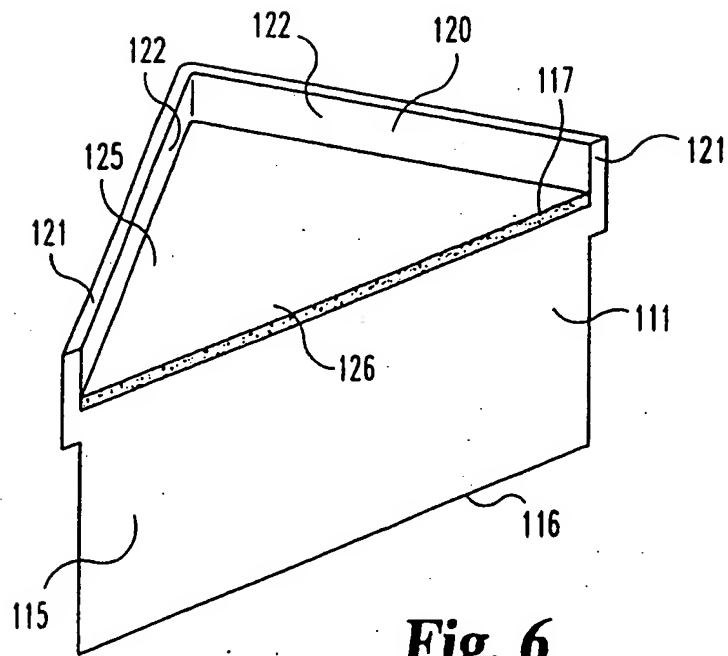
**Fig. 3**



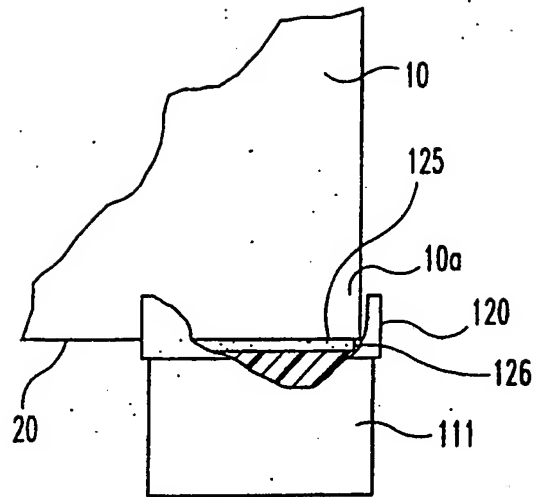
**Fig. 4**



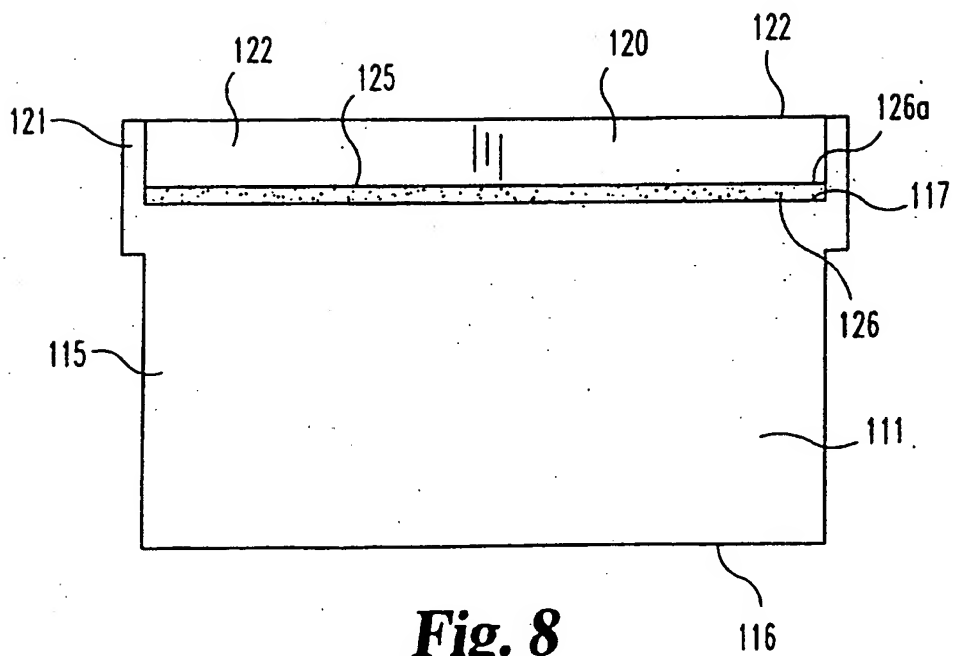
**Fig. 5**



**Fig. 6**

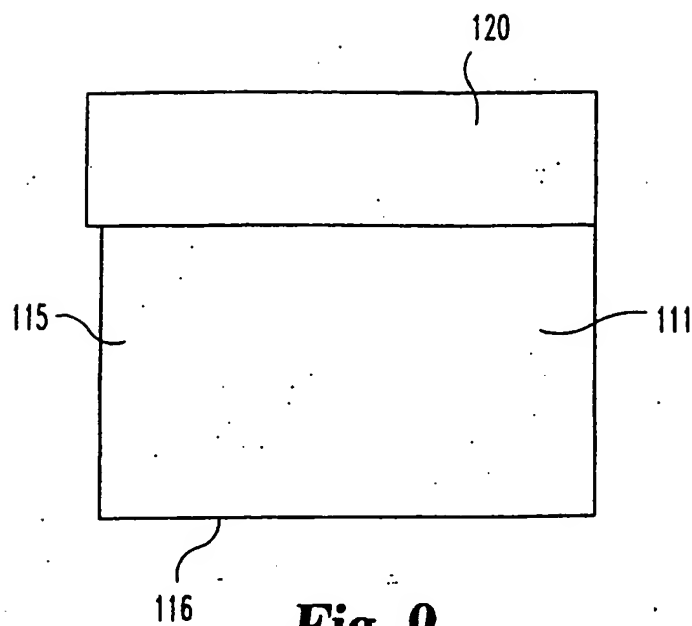


**Fig. 7**

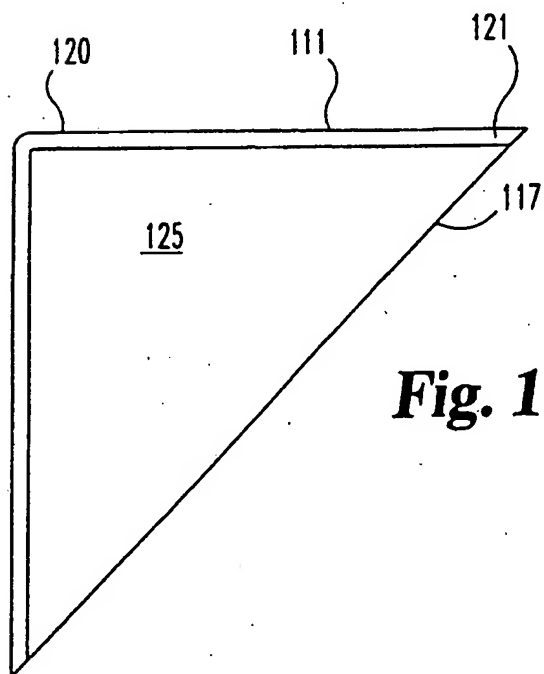


**Fig. 8**





**Fig. 9**



**Fig. 10**



# FURNACE MOUNTING BLOCKS

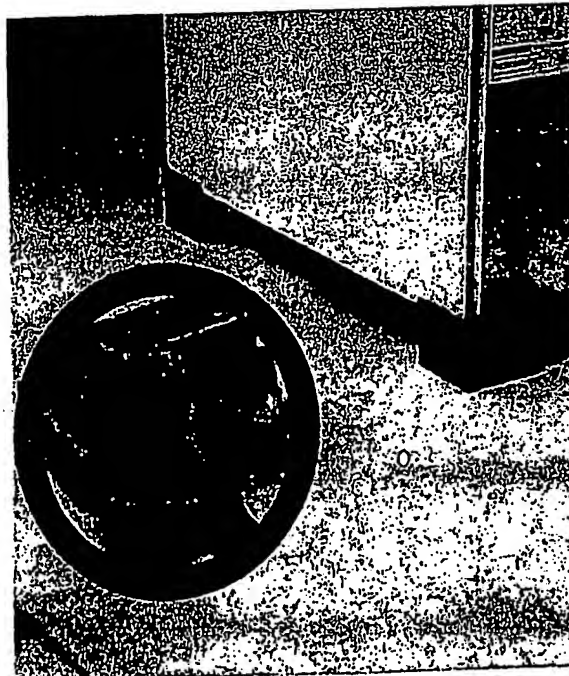
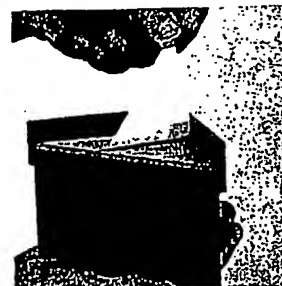
*Eliminates Vibration & Noise*



Patent  
Pending

## FEATURES & Benefits:

- Peel & Stick – *EASY INSTALLATION!*
- Vibration Absorbing Cork Pad – *NOISE REDUCTION!*
- 300 lbs per Block Support – *STRENGTH!*
- Holds Furnace off Floor – *Avoids MOISTURE & RUST!*
- Lifetime Guarantee – *DURABLE PLASTIC POLYMER!*
- 4 Mounting Blocks weigh only 1.5 lbs  
versus 4 Cinder Blocks @ 24 lbs – *LIGHTWEIGHT!*
- Available at Wholesalers – *SAVES TIME!*
- Won't come off & Easier to install – *SAVES MONEY!*



**NSA Products, Inc.**

755 East Main Street

Greenwood, Indiana 46143

(317) 865-4140

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application:

Mark A. Stansbury

Serial No. 10/669,829

Filed September 24, 2003

FURNACE MOUNT AND METHOD  
OF INSTALLATION

) Before the Examiner

) Group Art Unit 3632

) Our Ref.: 27028-5

(1)

## DECLARATION OF TIM JACOBSON

I, Tim Jacobson, hereby swear and affirm as follows:

1. *MECH. DEPT. MANAGER*  
I am the ~~President~~ of Delcon, Inc. in Jackson, Wyoming. We are contractors, and as part of this work, we install and replace furnaces.

2. In particular, our company has purchased and used the NSA Products, Inc. Furnace Mounting Blocks. Such Furnace Mounting Blocks are the type generally illustrated in the drawings labeled Figs. 5-10 and attached here as Exhibit A.

3. Prior to NSA Products' furnace mounting block, I had never seen a light-weight furnace mounting block system of this type for elevating the furnace from the floor.

4. I consider the Furnace Mounting Block of NSA Products to be a fabulous invention. The Furnace Mounting Block system as compared to previous techniques, such as utilizing masonry blocks to hold the furnace off of the floor, leads to a significantly enhanced installation. The Furnace Mounting Block also improves the quality of the installer's work day by eliminating the need to carry heavy masonry blocks to the job site and affording in many jobs the option to

slide the furnace into position while seated on the furnace mounting blocks. When using masonry blocks the furnace and masonry blocks move separately when the furnace is adjusted into place. With the NSA Furnace Mounting Blocks the blocks and the furnace move together as one unit. Thereby, providing an installation time saving of about fifteen minutes for many installations.

5. In my experience, prior to NSA Products' Furnace Mounting Blocks, utilization of masonry blocks to install a furnace was a given – it was just the way it was done.

6. NSA Products' Furnace Mounting Block provides a simple but powerful solution to the problems associated with mounting furnaces above the floor. Because of the many benefits associated with the product, our company has adopted the Furnace Mounting Blocks as our preferred means for mounting furnaces above the floor.

7. Other than being a satisfied customer, I have no financial interest in NSA Products or its patent application.

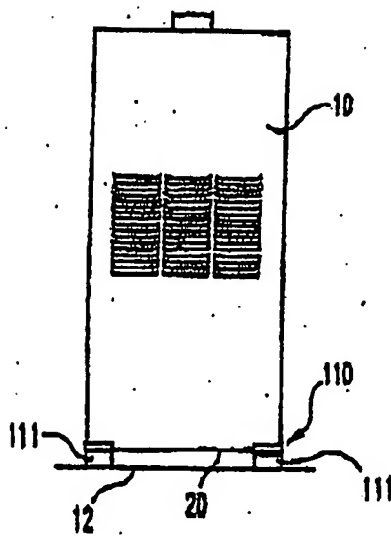
8. I, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, declare that the facts set forth in the Declaration are true; all statements made of my own knowledge are true; and all statements made on information are believed to be true.

Date:

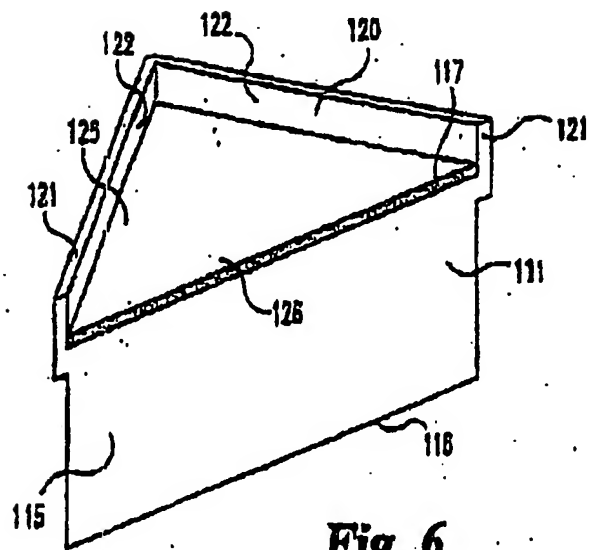
2/10/04

By:

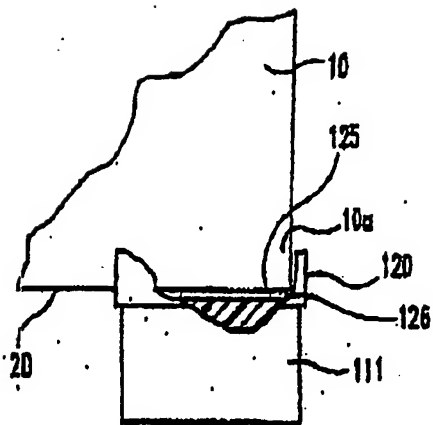
Tim Jacobson, PresidentMECH DEPT MANAGER



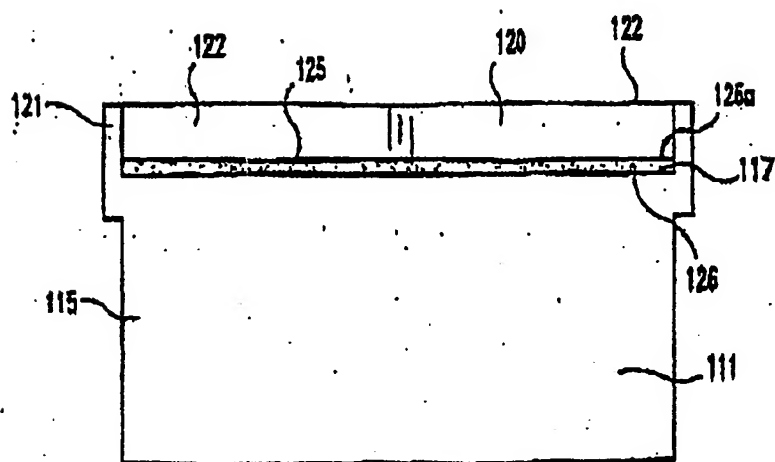
**Fig. 5**



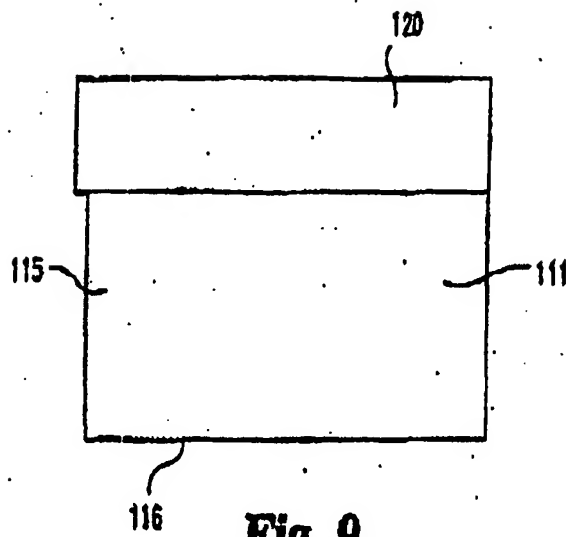
**Fig. 6**



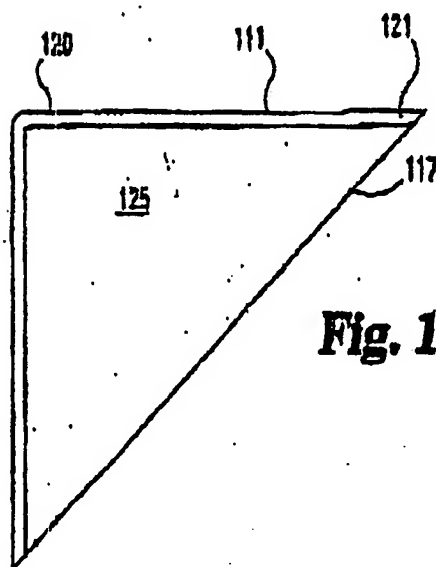
**Fig. 7**



**Fig. 8**



**Fig. 9**



**Fig. 10**

(1)

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application: )  
Mark A. Stansbury ) Before the Examiner  
Serial No. 10/669,829 )  
Filed September 24, 2003 ) Group Art Unit 3632  
FURNACE MOUNT AND METHOD )  
OF INSTALLATION ) Our Ref.: 27028-5

## DECLARATION OF DAVE COURNOYER

I, Dave Cournoyer, hereby swear and affirm as follows:

1. I am the Service Manager at J. Maloney & Sons in Cedar Brook, New Jersey. We are an HVAC-R Service Contractor, and as part of our work we install residential and light commercial furnaces.
2. In particular, our company has purchased and used the NSA Products, Inc. Furnace Mounting Blocks. Such Furnace Mounting Blocks are the type generally illustrated in the drawings labeled Figs. 5-10 and attached here as Exhibit A.
3. Prior to NSA Products' furnace mounting block, I had never seen a light-weight furnace mounting block system of this type for elevating the furnace from the floor.
4. I consider the Furnace Mounting Block of NSA Products to be a fabulous invention. The Furnace Mounting Block system as compared to previous techniques, such as utilizing masonry blocks to hold the furnace off of the floor, leads to a significantly enhanced installation. The Furnace Mounting Block also improves the quality of the installer's work day by eliminating the need to carry



heavy masonry blocks to the job site and affording in many jobs the option to slide the furnace into position while seated on the furnace mounting blocks. When using masonry blocks the furnace and masonry blocks move separately when the furnace is adjusted into place. With the NSA Furnace Mounting Blocks the blocks and the furnace move together as one unit. Thereby, providing an installation time saving of about fifteen minutes for many installations.

5. In my experience, prior to NSA Products' Furnace Mounting Blocks, utilization of masonry blocks to install a furnace was a given — it was just the way it was done.

6. NSA Products' Furnace Mounting Block provides a simple but powerful solution to the problems associated with mounting furnaces above the floor. Because of the many benefits associated with the product, our company has adopted the Furnace Mounting Blocks as our preferred means for mounting furnaces above the floor.

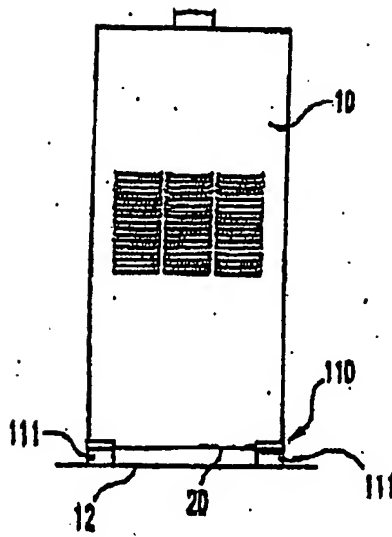
7. Other than being a satisfied customer, I have no financial interest in NSA Products or its patent application.

8. I, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, declare that the facts set forth in the Declaration are true; all statements made of my own knowledge are true; and all statements made on information are believed to be true.

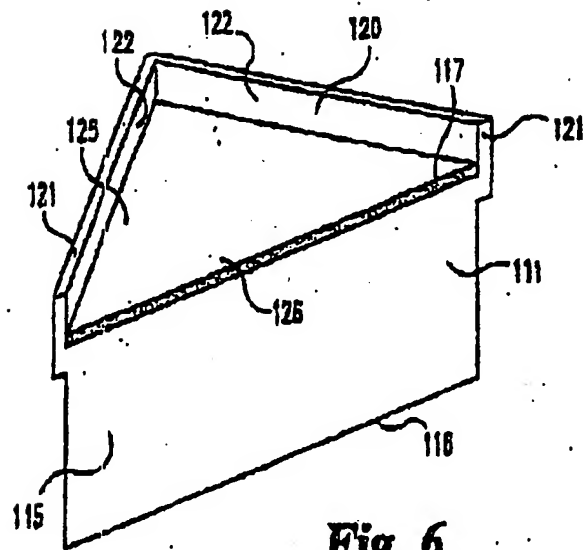
Date: 2-9-09

By: 

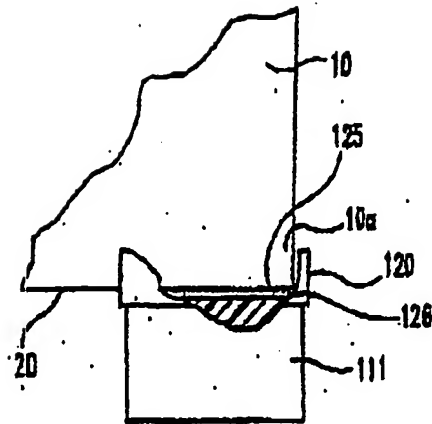
Dave Courmoyer



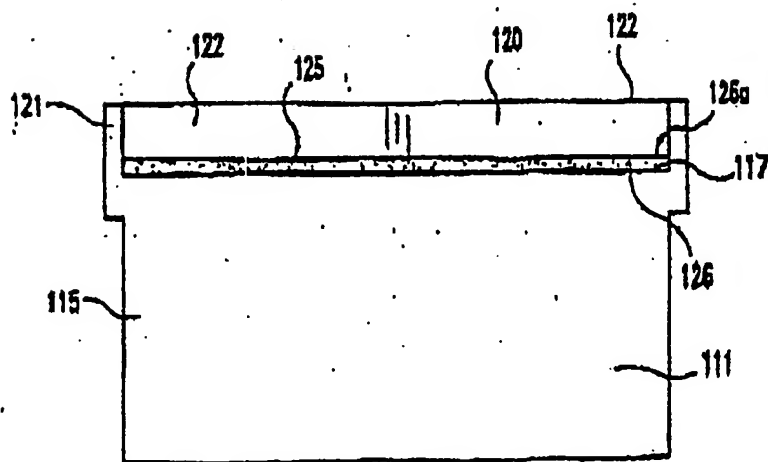
**Fig. 5**



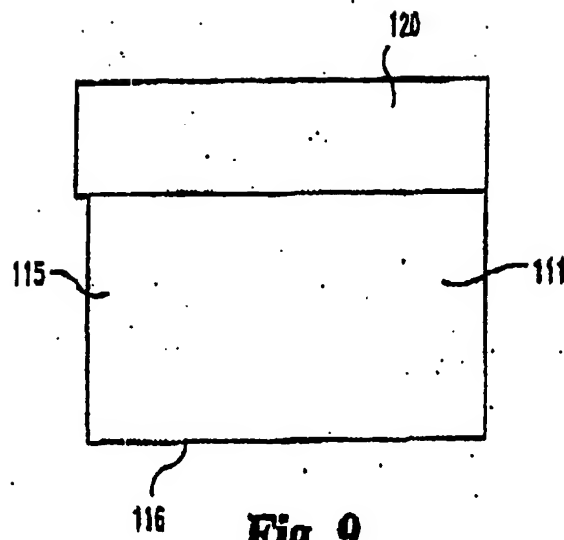
**Fig. 6**



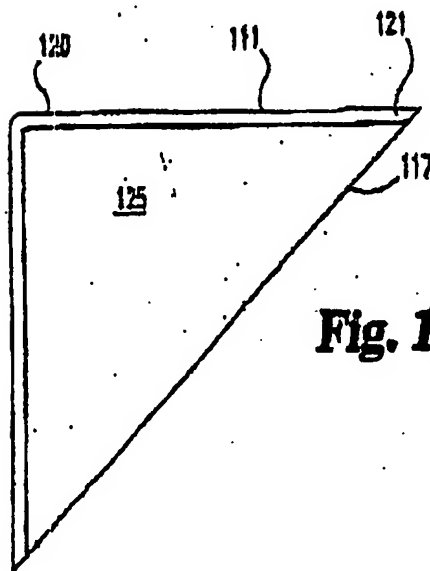
**Fig. 7**



**Fig. 8**



**Fig. 9**



**Fig. 10**

02/09/2004 14:13 3178828022

FEB-09-2004 MON 01:55 PM

MARK IV ENVIRONMENTAL

FAX NO. 317 885 4145

PAGE 01

P. 01

(W)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application: )  
 Mark A. Stansbury ) Before the Examiner  
 Serial No. 10/669,829 )  
 Filed September 24, 2003 ) Group Art Unit 3632  
 FURNACE MOUNT AND METHOD )  
 OF INSTALLATION ) Our Ref.: 27028-5

DECLARATION OF

I, Ron Jackson, hereby swear and affirm as follows:

1. I am President of Jackson Systems, Indianapolis, IN.

Our business is the manufacturing and wholesale distribution of heating, ventilation and air conditioning products. As part of this work we manufacture and sell furnace ventilation equipment and thermostats, and we purchase and re-sale NSA Products Furnace Mounting Blocks. It is important to note that I am an inventor and entrepreneur who have numerous patents issued on some of the products we manufacture at Jackson Systems for this industry and I recognize the intellectual property and unique inventiveness of the NSA Products' Furnace Mounting Block.

2. In particular, our company has purchased and re-sold the NSA Products, Inc. Furnace Mounting Blocks. Such Furnace Mounting Blocks are the type generally illustrated in the drawings labeled Figs. 5-10 and attached here as Exhibit A.

02/09/2004 14:13 3178828022

FEB-09-2004 MON 01:55 PM

MARK IV ENVIRONMENTAL  
FAX NO. 317 885 4145PAGE 02  
P. 02

3. Prior to NSA Products' furnace mounting block, I had never seen a light-weight furnace mounting block system of this type for elevating the furnace from the floor.

4. I consider the Furnace Mounting Block of NSA Products to be a fabulous invention. The Furnace Mounting Block system as compared to previous techniques, such as utilizing masonry blocks to hold the furnace off of the floor, leads to a significantly enhanced installation. The Furnace Mounting Block also improves the quality of the installer's work day by eliminating the need to carry heavy masonry blocks to the job site and affording in many jobs the option to slide the furnace into position while seated on the furnace mounting blocks. When using masonry blocks the furnace and masonry blocks move separately when the furnace is adjusted into place. With the NSA Furnace Mounting Blocks the blocks and the furnace move together as one unit. Thereby, providing an installation time saving of about fifteen minutes for many installations.

5. In my experience, prior to NSA Products' Furnace Mounting Blocks, utilization of masonry blocks to install a furnace was a given - it was just the way it was done.

6. NSA Products' Furnace Mounting Block provides a simple but powerful solution to the problems associated with mounting furnaces above the floor. Because of the many benefits associated with the product, our company has adopted the Furnace Mounting Blocks as our recommended preferred means for mechanical service contractors to mount furnaces above the floor.

7. Other than being a satisfied customer, I have no financial interest in NSA Products or its patent application.

8. I, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, declare

02/09/2004 14:13 3178828822

FEB-09-2004 MON 01:58 PM

MARK IV ENVIRONMENTAL

FAX NO. 317 885 4145

PAGE 03

P. 03

that the facts set forth in the Declaration are true; all statements made of my own  
knowledge are true; and all statements made on information are believed to be  
true.

Date:

2-9-04

By:

Ronald E. Jackson

02/09/2004 14:13 3178828022

FEB-09-2004 MON 01:56 PM

Sent By: WOODARD BARNHART;

MARK IV ENVIRONMENTA

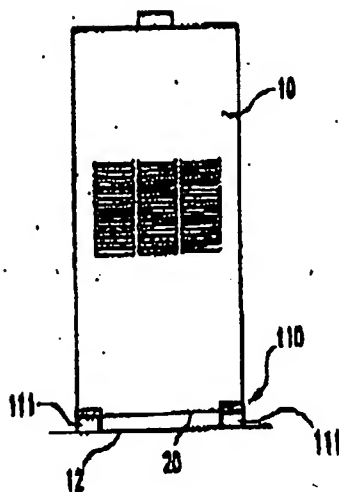
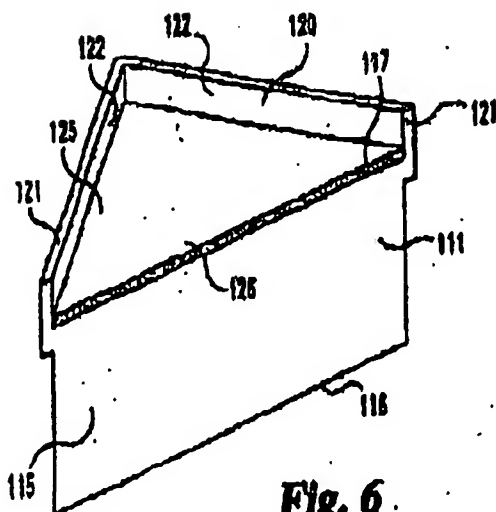
FAX NO. 317 865 4145

PAGE 04

P. 04

1 317 897 7541;

06 Feb 04 2:11PM Job 011; Page 4/8

**Fig. 5****Fig. 6**



02/09/2004 14:13 3178828822

MARK IV ENVIRONMENTA

PAGE 05

FEB-09-2004 MON 01:56 PM

FAX NO. 317 865 4145

P. 05

Sent By: MOODARD EDWARDT;

1 017 837 7581;

05 Feb 04 2:11PM; Job 011; Page 5/8

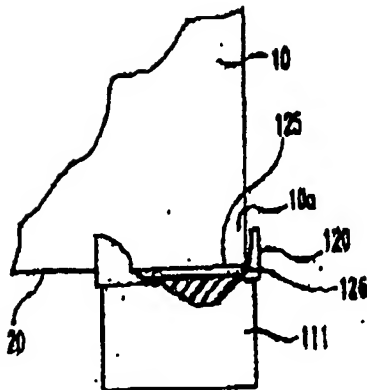


Fig. 7

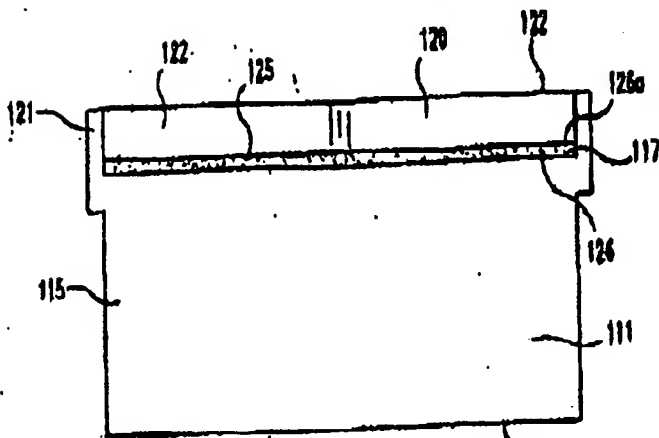


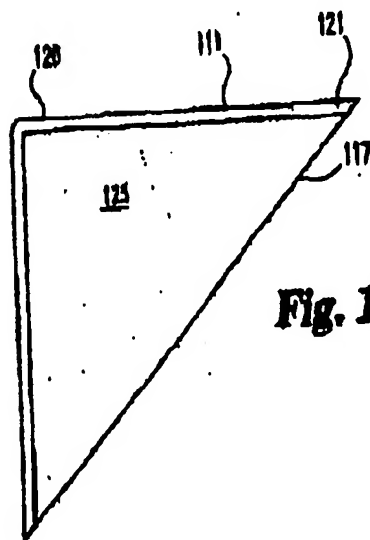
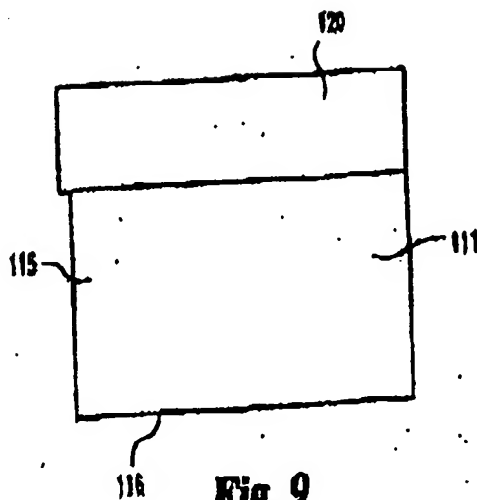
Fig. 8

FEB-09-2004 MON 01:58 PM

( 317 637 7581 )

05 Feb 04 2:11PM; Job 011; Page 6/6

sent by: WOODARD ENHARDTJ



(1)

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application:

Mark A. Stansbury

Serial No. 10/669,829

Filed September 24, 2003

FURNACE MOUNT AND METHOD  
OF INSTALLATION

} Before the Examiner

} Group Art Unit 2632

} Our Ref.: 27021-5

DECLARATION OF1. Stephen Hutchins hereby swear and affirm as follows:1. I am Owner (title)Indianapolis, IN 46228 (location)Our business is S&H Contractors Inc. As part of this  
work we Install Furnaces & Air Cond.2. In particular, our company has purchased and used the NSA Products, Inc.  
Furnace Mounting Blocks. Such Furnace Mounting Blocks are the type generally  
illustrated in the drawings labeled Figs. 5-10 and attached here as Exhibit A.3. Prior to NSA Products' furnace mounting block, I had never seen a light-  
weight furnace mounting block system of this type for elevating the furnace from  
the floor.4. I consider the Furnace Mounting Block of NSA Products to be a fabulous  
invention. The Furnace Mounting Block system as compared to previous  
techniques, such as utilizing masonry blocks to hold the furnace off of the floor,  
leads to a significantly enhanced installation. The Furnace Mounting Block also

improves the quality of the installer's work day by eliminating the need to carry heavy masonry blocks to the job site and affording in many jobs the option to slide the furnace into position while seated on the furnace mounting blocks. When using masonry blocks the furnace and masonry blocks move separately when the furnace is adjusted into place. With the NSA Furnace Mounting Blocks the blocks and the furnace move together as one unit. Thereby, providing an installation time saving of about fifteen minutes for many installations.

5. In my experience, prior to NSA Products' Furnace Mounting Blocks, utilization of masonry blocks to install a furnace was a given -- it was just the way it was done.

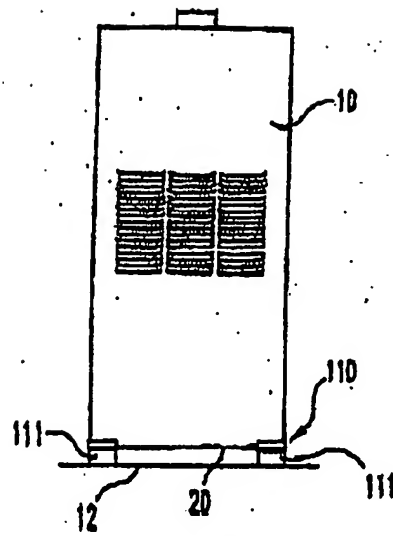
6. NSA Products' Furnace Mounting Block provides a simple but powerful solution to the problems associated with mounting furnaces above the floor. Because of the many benefits associated with the product, our company has adopted the Furnace Mounting Blocks as our preferred means for mounting furnaces above the floor.

7. Other than being a satisfied customer, I have no financial interest in NSA Products or its patent application.

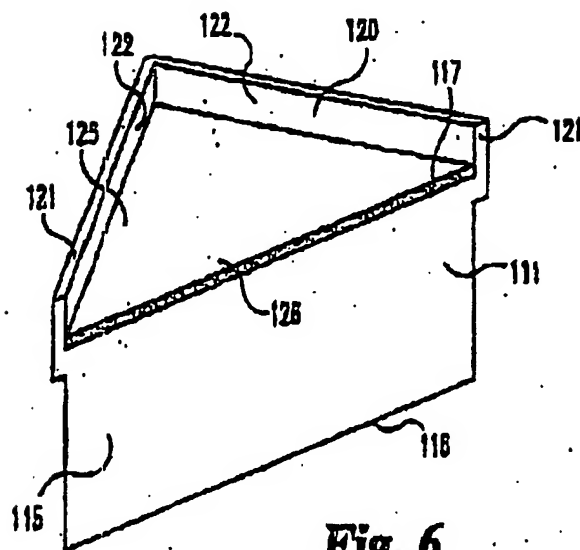
8. I, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, declare that the facts set forth in the Declaration are true; all statements made of my own knowledge are true; and all statements made on information are believed to be true.

Date: 2-9-04

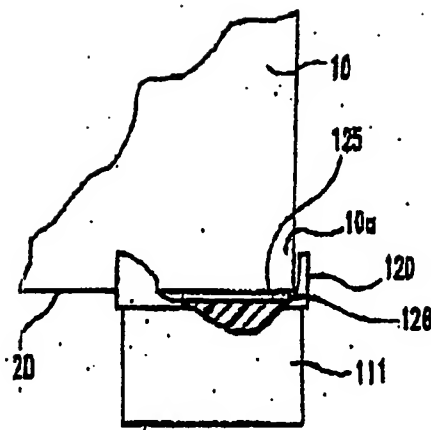
By: Stephen R. Anderson  
Owner



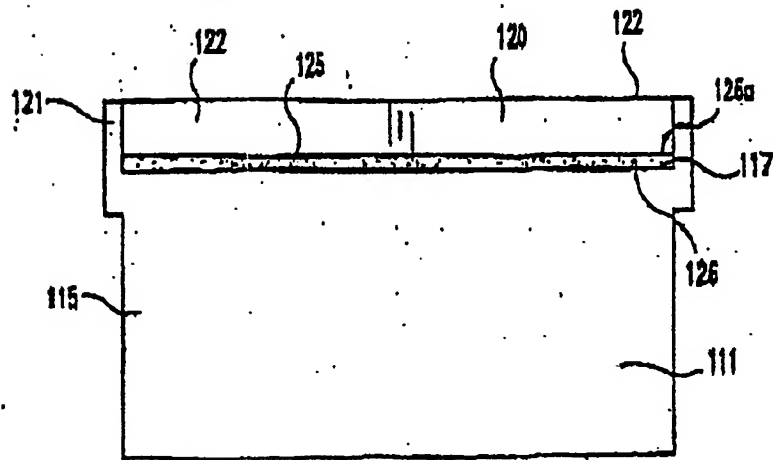
**Fig. 5**



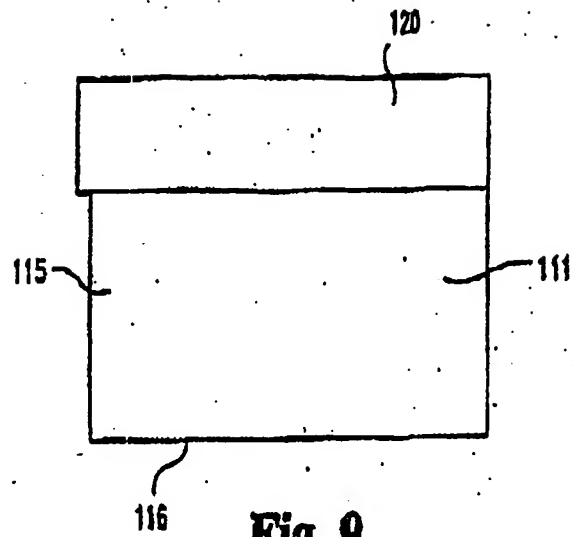
**Fig. 6**



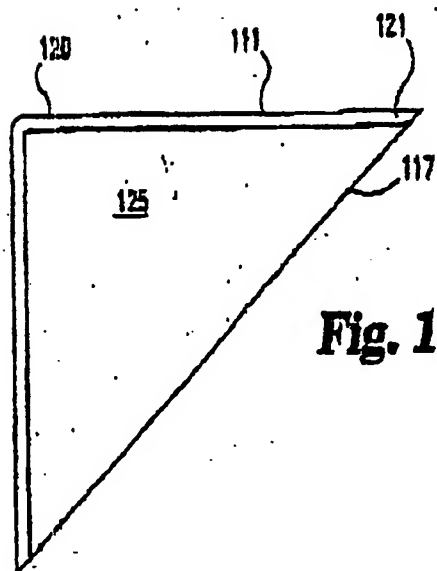
**Fig. 7**



**Fig. 8**



**Fig. 9**



**Fig. 10**

(1)

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application: )  
Mark A. Sanbury ) Before the Examiner  
Serial No. 10/669,829 )  
Filed September 24, 2003 ) Group Art Unit 3632  
FURNACE MOUNT AND METHOD )  
OF INSTALLATION ) Our Ref.: 27028-5

## DECLARATION OF JOHN KNIPE

1. John Knipe, hereby swear and affirm as follows:

1. I am the President of Knipe Heating and Cooling. Our business is located in Greenwood, Indiana. As part of our service, we install and replace gas furnaces.
2. In particular, our company has purchased and used the NSA Products, Inc. Furnace Mounting Blocks. Such Furnace Mounting Blocks are the type generally illustrated in the drawings labeled Figs. 5-10 and attached here as Exhibit A.
3. Prior to NSA Products' furnace mounting block, I had never seen a light-weight furnace mounting block system of this type for elevating the furnace from the floor.
4. I consider the Furnace Mounting Block of NSA Products to be a fabulous invention. The Furnace Mounting Block system as compared to previous techniques, such as utilizing masonry blocks to hold the furnace off of the floor, leads to a significantly enhanced installation. The Furnace Mounting Block also improves the quality of the installer's work day by eliminating the need to carry



heavy masonry blocks to the job site and affording in many jobs the option to slide the furnace into position while seated on the furnace mounting blocks. When using masonry blocks the furnace and masonry blocks move separately when the furnace is adjusted into place. With the NSA Furnace Mounting Blocks the blocks and the furnace move together as one unit. Thereby, providing an installation time saving of about fifteen minutes for many installations.

5 In my experience, prior to NSA Products' Furnace Mounting Blocks, utilization of masonry blocks to install a furnace was a given - it was just the way it was done.

6 NSA Products' Furnace Mounting Block provides a simple but powerful solution to the problems associated with mounting furnaces above the floor. Because of the many benefits associated with the product, our company has adopted the Furnace Mounting Blocks as our preferred means for mounting furnaces above the floor.

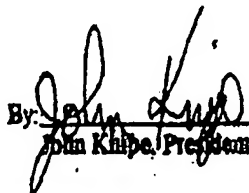
7 Other than being a satisfied customer, I have no financial interest in NSA Products or its patent application.

8 I, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, declare that the facts set forth in the Declaration are true; all statements made of my own knowledge are true; and all statements made on information are believed to be true.

Date:

2-9-04

By:

  
John Knipe, President

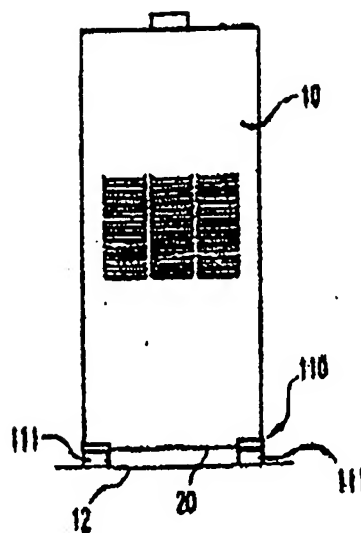
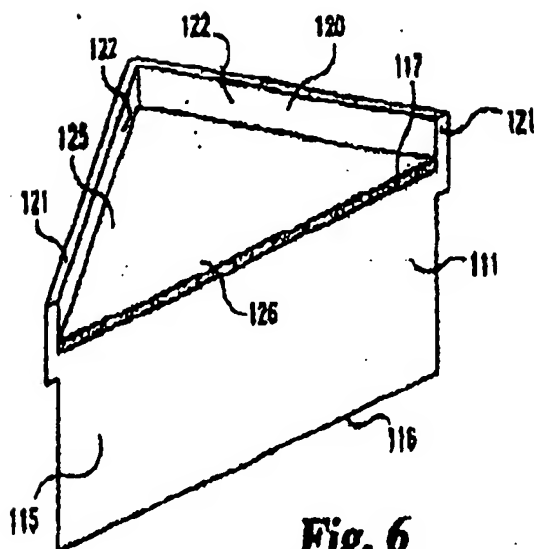
02/09/2004 08:50 3178828822

Sent By: WOODARD WARD;

MARK IV ENVIRONMENTA

PAGE 84

1 317 837 7581; 05 Feb 04 2:11PM; Job 811; Page 4/8

**Fig. 5****Fig. 6**

02/09/2004 08:50

3178828022

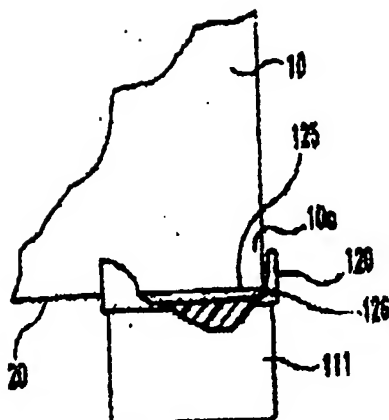
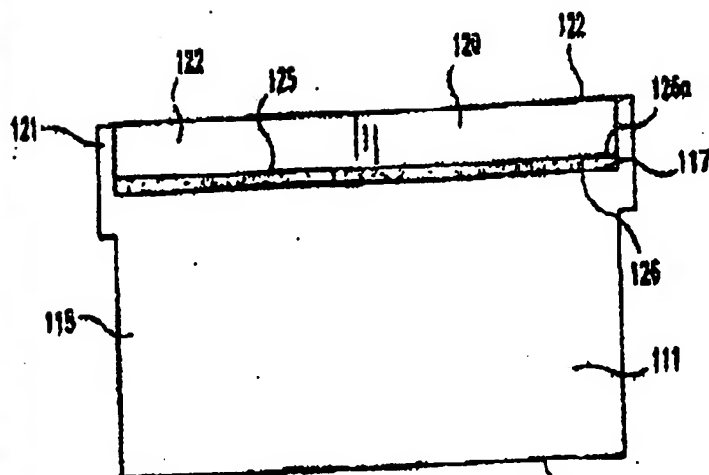
MARK IV ENVIRONMENTA

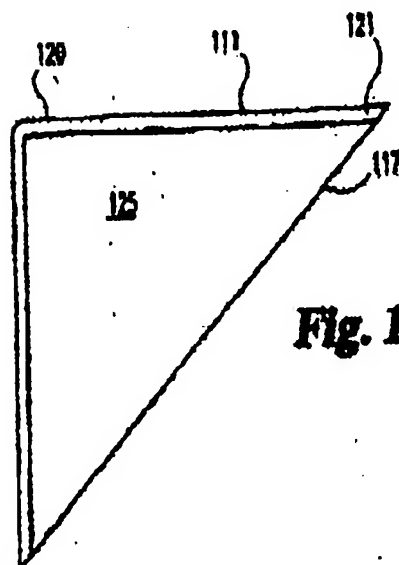
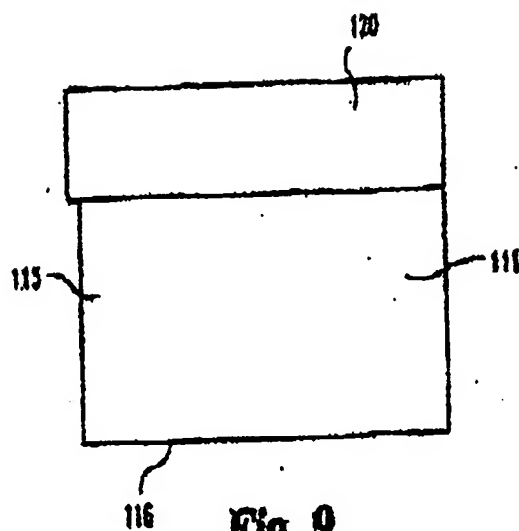
PAGE 05

1 017 007 T501;

05 Feb 04 2:11PM; Job 011; Page 5/6

Sent by: WOODARD B. WARD;

**Fig. 7****Fig. 8**



**JOHN KNIPE HEATING & COOLING, INC.**

908 Wood Creek Place • Greenwood, IN 46142

Phone: 887-2138 • 1-800-658-6618

Providing quality HVAC service with a personal touch

**FAX TRANSMITTAL**

DATE: 2-9-04

TO: Mauh

FROM: SK

RE:

PAGES (including cover page):

6

COMMENTS:

(I)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application	)
Mark A. Stansbury	) Before the Examiner
Serial No. 10/669,129	)
Filed September 24, 2003	) Group Art Unit 3632
FURNACE MOUNT AND METHOD	)
OF INSTALLATION	) Our Ref.: 27028-5

DECLARATION OF GENE LEE

I, Gene Lee, hereby swear and affirm as follows:

1. I am the owner of Lee's Refrigeration in Seward, Nebraska. Our business activities include the installation and replacement of gas furnaces.
2. In particular, our company has purchased and used the NSA Products, Inc. Furnace Mounting Blocks. Such Furnace Mounting Blocks are the type generally illustrated in the drawings labeled Figs. 5-10 and attached here as Exhibit A.
3. Prior to NSA Products' furnace mounting block, I had never seen a light-weight furnace mounting block system of this type for elevating the furnace from the floor.
4. I consider the Furnace Mounting Block of NSA Products to be a fabulous invention. The Furnace Mounting Block system as compared to previous techniques, such as utilizing masonry blocks to hold the furnace off of the floor, leads to a significantly enhanced installation. The Furnace Mounting Block also improves the quality of the installer's work day by eliminating the need to carry heavy masonry blocks to the job site and affording in many jobs the option to

Slide the furnace into position while seated on the furnace mounting blocks. When using masonry blocks the furnace and masonry blocks move separately when the furnace is adjusted into place. With the NSA Furnace Mounting Blocks the blocks and the furnace move together as one unit. Thereby, providing an installation time saving of about fifteen minutes for many installations.

5. In my experience, prior to NSA Products' Furnace Mounting Blocks, utilization of masonry blocks to install a furnace was a given - it was just the way it was done.

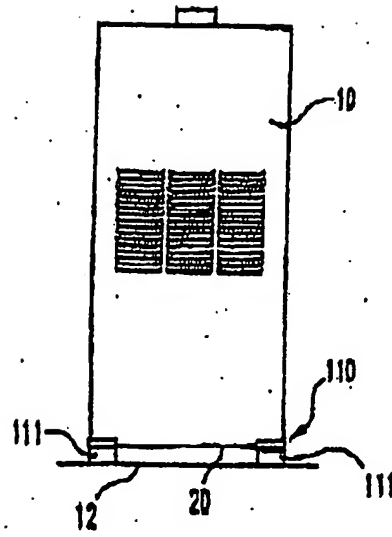
6. NSA Products' Furnace Mounting Block provides a simple but powerful solution to the problems associated with mounting furnaces above the floor. Because of the many benefits associated with the product, our company has adopted the Furnace Mounting Blocks as our preferred means for mounting furnaces above the floor.

7. Other than being a satisfied customer, I have no financial interest in NSA Products or its patent application.

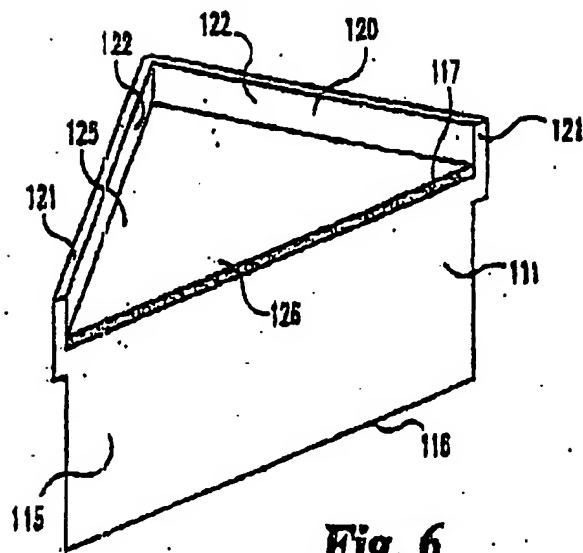
8. I, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, declare that the facts set forth in the Declaration are true; all statements made of my own knowledge are true; and all statements made on information are believed to be true.

Date: 2/7/04

By: [Signature]  
Gene Leo

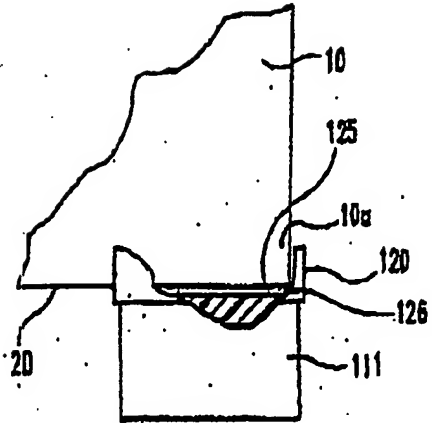


**Fig. 5**

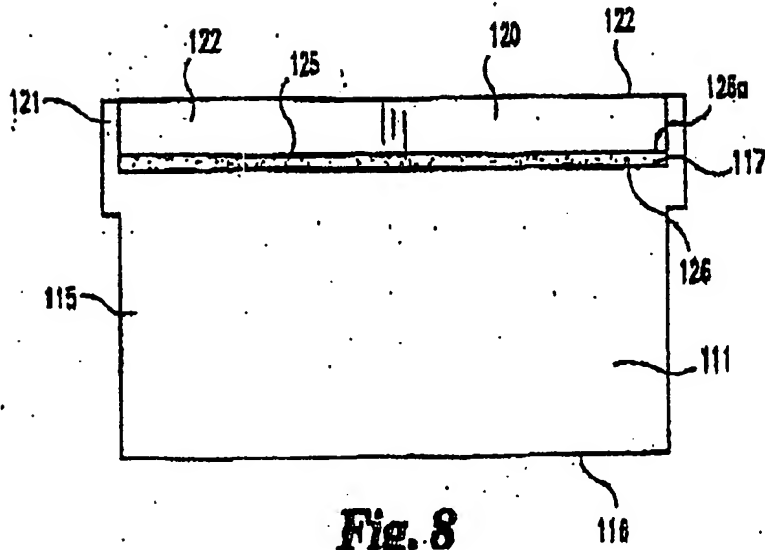


**Fig. 6**

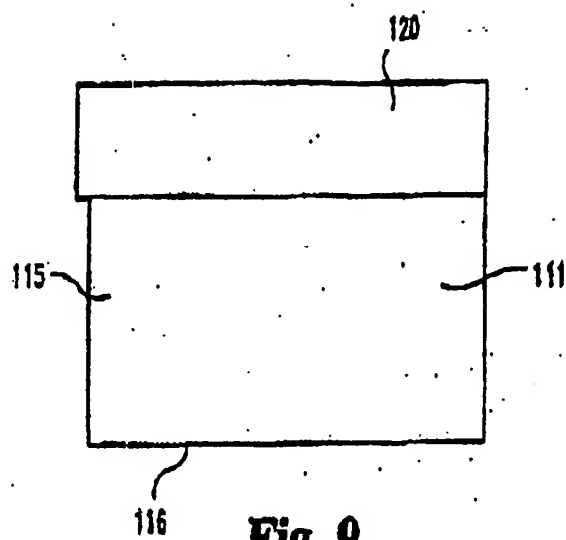




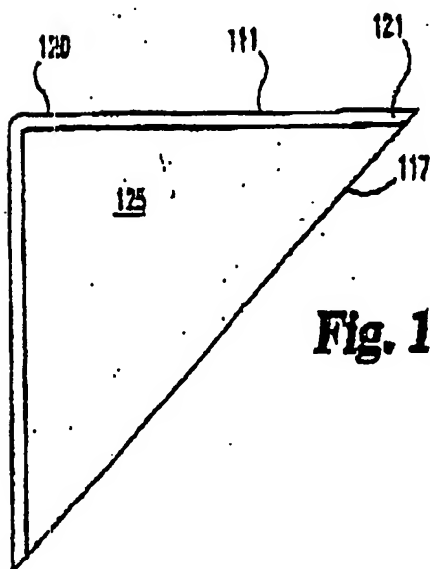
**Fig. 7**



**Fig. 8**



**Fig. 9**



**Fig. 10**

(1)

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application:	)
Mark A. Staszbury	) Before the Examiner
Serial No. 10/669,829	)
Filed September 24, 2003	) Group Art Unit 3632
FURNACE MOUNT AND METHOD	)
OF INSTALLATION	) Our Ref: 27028-5

## DECLARATION OF RICK ELSTON

I, Rick Elston, hereby swear and affirm as follows:

1. I am the owner of Rick's Heating & Air Conditioning. My business is located in Paulding Ohio. Our business installs and replaces gas furnaces.
2. In particular, our company has purchased and used the NSA Products, Inc. Furnace Mounting Blocks. Such Furnace Mounting Blocks are the type generally illustrated in the drawings labeled Figs. 9-10 and attached here as Exhibit A.
3. Prior to NSA Products' furnace mounting block, I had never seen a light-weight furnace mounting block system of this type for elevating the furnace from the floor.
4. I consider the Furnace Mounting Block of NSA Products to be a fabulous invention. The Furnace Mounting Block system as compared to previous techniques, such as utilizing masonry blocks to hold the furnace off of the floor, leads to a significantly enhanced installation. The Furnace Mounting Block also improves the quality of the installer's work day by eliminating the need to carry heavy masonry blocks to the job site and affording in many jobs the option to

slide the furnace into position while seated on the furnace mounting blocks.

When using masonry blocks the furnace and masonry blocks move separately when the furnace is adjusted into place. With the NSA Furnace Mounting Blocks the blocks and the furnace move together as one unit. Thereby, providing an installation time saving of about fifteen minutes for many installations.

5. In my experience, prior to NSA Products' Furnace Mounting Blocks, utilization of masonry blocks to install a furnace was a given - it was just the way it was done.

6. NSA Products' Furnace Mounting Block provides a simple but powerful solution to the problems associated with mounting furnaces above the floor. Because of the many benefits associated with the product, our company has adopted the Furnace Mounting Blocks as our preferred means for mounting furnaces above the floor.

7. Other than being a satisfied customer, I have no financial interest in NSA Products or its patent application.

8. I, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, declare that the facts set forth in the Declaration are true; all statements made of my own knowledge are true; and all statements made on information are believed to be true.

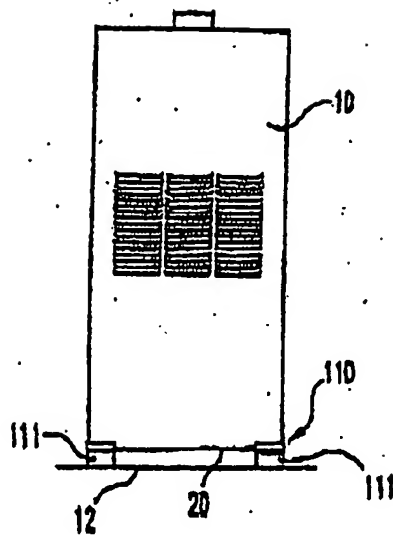
Date

2-9-04

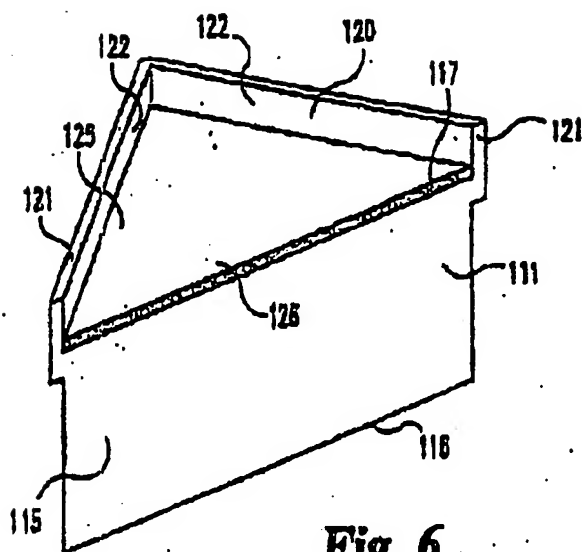
By



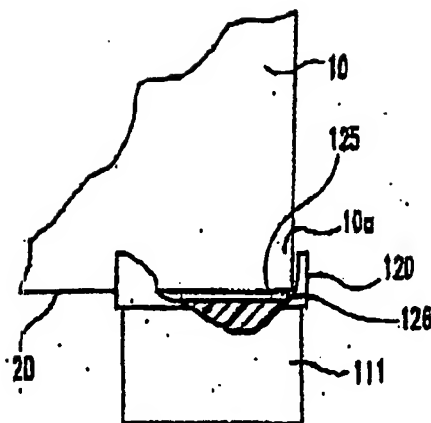
Rick Elston



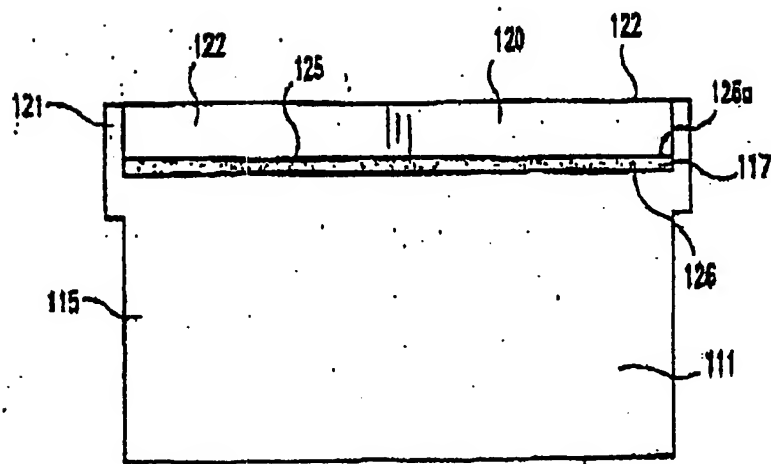
**Fig. 5**



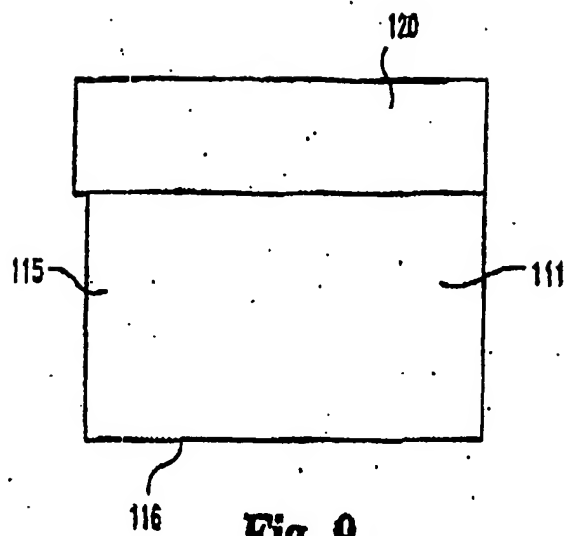
**Fig. 6**



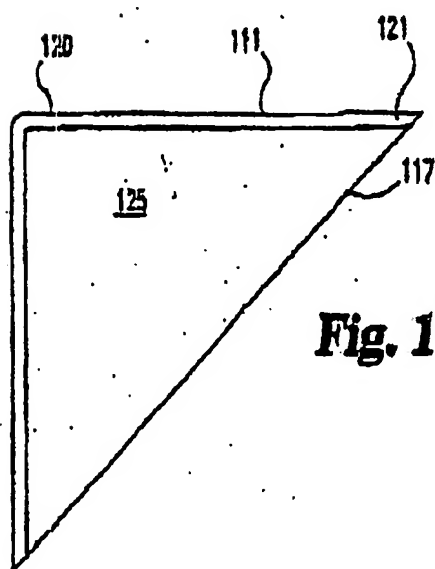
**Fig. 7**



**Fig. 8**



**Fig. 9**



**Fig. 10**

(1)

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application:

Mark A. Stansbury

Serial No. 10/669,829

Filed September 24, 2003

FURNACE MOUNT AND METHOD  
OF INSTALLATION

) Before the Examiner

) Group Art Unit 3632

) Our Ref: 27028-5

## DECLARATION OF JEFF MALONE

I, Jeff Malone, hereby swear and affirm as follows:

1. I am the President of Temperature Control Specialists, Inc. of Indianapolis, Indiana. As part of our services, we install and replace upflow furnaces.
2. In particular, our company has purchased and used the NSA Products, Inc. Furnace Mounting Blocks. Such Furnace Mounting Blocks are the type generally illustrated in the drawings labeled Figs. 3-10 and attached here as Exhibit A.
3. Prior to NSA Products' furnace mounting block, I had never seen a light-weight furnace mounting block system of this type for elevating the furnace from the floor.
4. I consider the Furnace Mounting Block of NSA Products to be a fabulous invention. The Furnace Mounting Block system as compared to previous techniques, such as utilizing masonry blocks to hold the furnace off of the floor, leads to a significantly enhanced installation. The Furnace Mounting Block also improves the quality of the installer's work day by eliminating the need to carry



heavy masonry blocks to the job site and affording in many jobs the option to slide the furnace into position while seated on the furnace mounting blocks. When using masonry blocks the furnace and masonry blocks move separately when the furnace is adjusted into place. With the NSA Furnace Mounting Blocks the blocks and the furnace move together as one unit. Thereby, providing an installation time saving of about fifteen minutes for many installations.

5. In my experience, prior to NSA Products' Furnace Mounting Blocks, utilization of masonry blocks to install a furnace was a given -- it was just the way it was done.

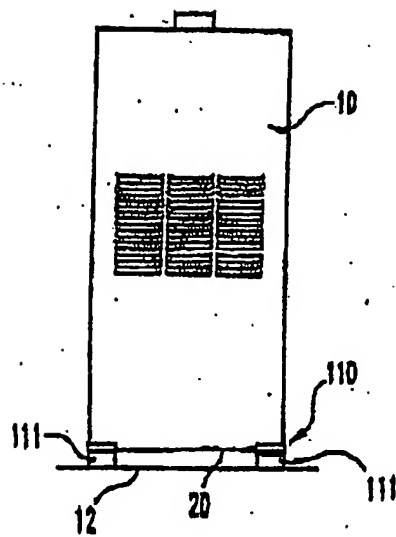
6. NSA Products' Furnace Mounting Block provides a simple but powerful solution to the problems associated with mounting furnaces above the floor. Because of the many benefits associated with the product, our company has adopted the Furnace Mounting Blocks as our preferred means for mounting furnaces above the floor.

7. Other than being a satisfied customer, I have no financial interest in NSA Products or its patent application.

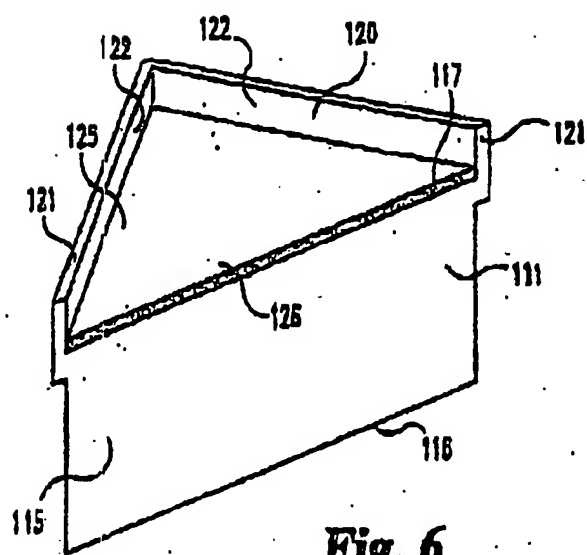
8. I, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, declare that the facts set forth in the Declaration are true; all statements made of my own knowledge are true; and all statements made on information are believed to be true.

Date: 2/9/04

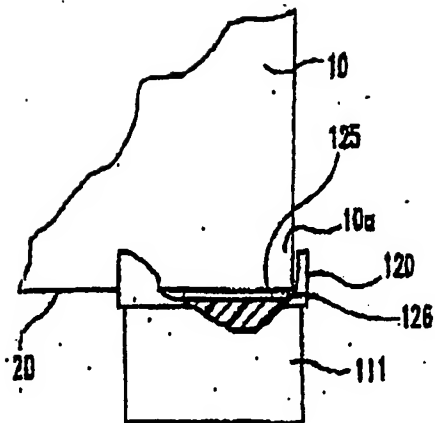
By: Jeff Malone  
Jeff Malone, President



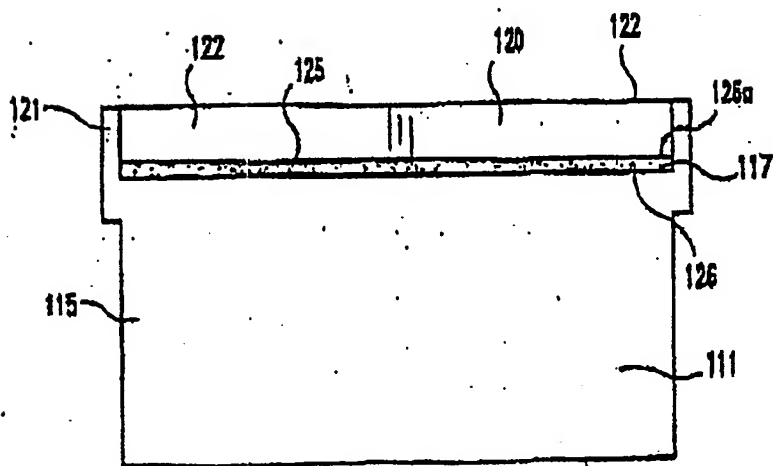
**Fig. 5**



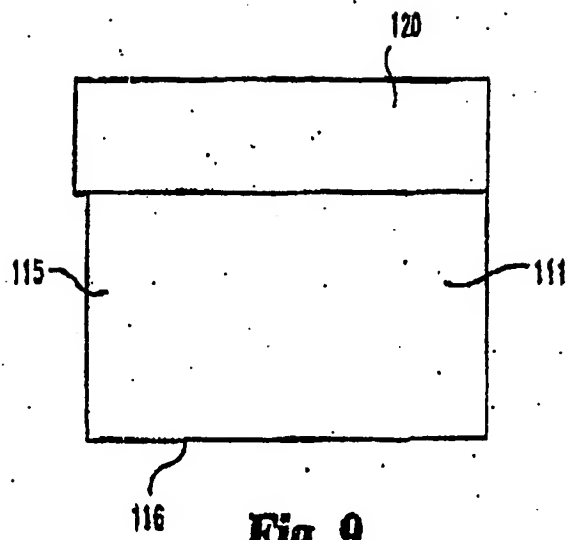
**Fig. 6**



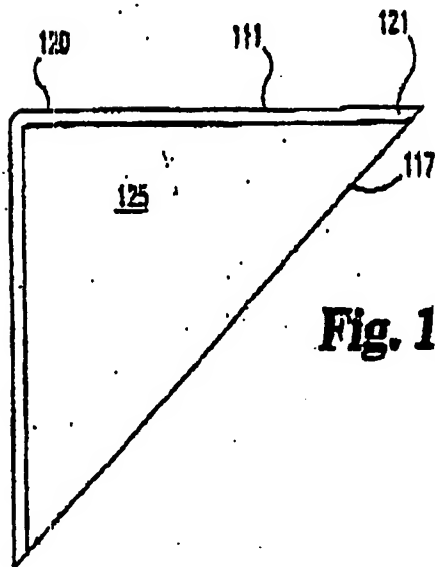
**Fig. 7**



**Fig. 8**



**Fig. 9**



**Fig. 10**

# INDIANA SUPPLY

C O R P O R A T I O N

Commercial / Residential • Heating & Air Conditioning • Equipment & Supplies

FEB 6 2004 17:02 P. 01

(W)

Declaration of Phil Buehler

February 6, 2004

1. I, Phil Buehler, Hereby swear & affirm as follows:

I am Phil Buehler, Product Manager of Indiana Supply Corporation. Our Business is wholesale distributor of heating and air conditioning equipment and supplies.

2. In particular, our company has purchased and resold Furnace Mounting Blocks from NSA Products Incorporated in Greenwood, Indiana. Such Furnace Mounting Blocks are the type generally illustrated in the drawings labeled figures 5 - 10 and attached here as exhibited.

3. Prior to NSA Products Furnace Mounting Blocks, I had never seen a lightweight furnace-mounting block of this type for elevating the furnace above the floor.

4. I consider the Furnace Mounting Block of NSA Products to be a fabulous invention as compared to previous techniques, such as utilization of concrete blocks to hold the furnace off the floor.

5. Prior to this design, we had nothing else to offer the contractors to generate more income or improve their quality of installation with regard to Furnace Mounting.

6. We began sales as of August 20, 2001 and since that time have generated approximately \$9840 revenue and have sold 3936 blocks to date.

7. We anticipate future sales to grow steadily at ten to fifteen percent a year as more contractors become aware of this quality system.



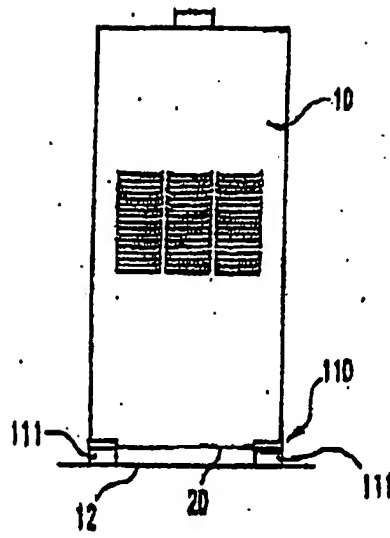
Phil Buehler

MAIN OFFICE: 3836 E. 21st Street • Indianapolis, Indiana 46219-4699 • (317) 359-5451

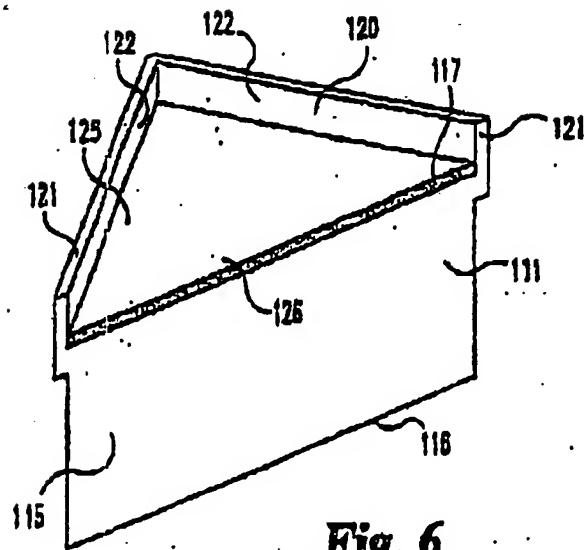
FORT WAYNE OFFICE: 7710 Freedom Way • Fort Wayne, Indiana 46818 • (260) 497-0533

SOUTH BEND OFFICE: 6139 Portland Drive • South Bend, Indiana 46628 • (574) 247-4261

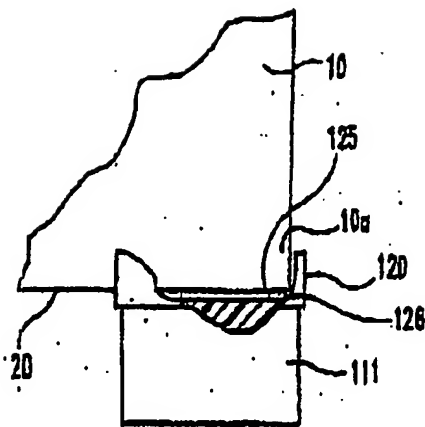




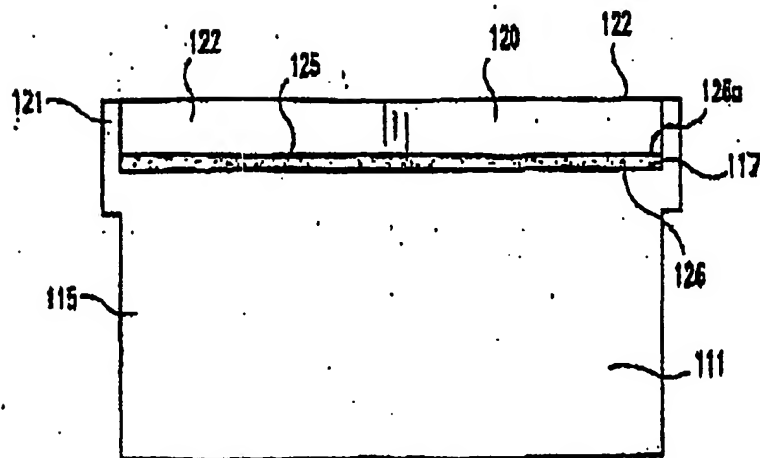
**Fig. 5**



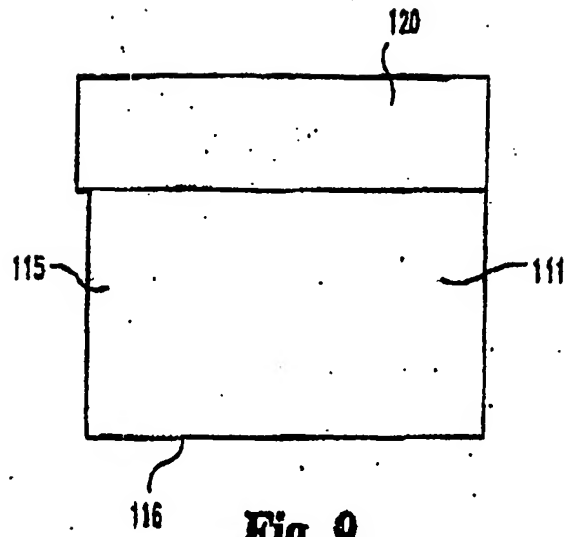
**Fig. 6**



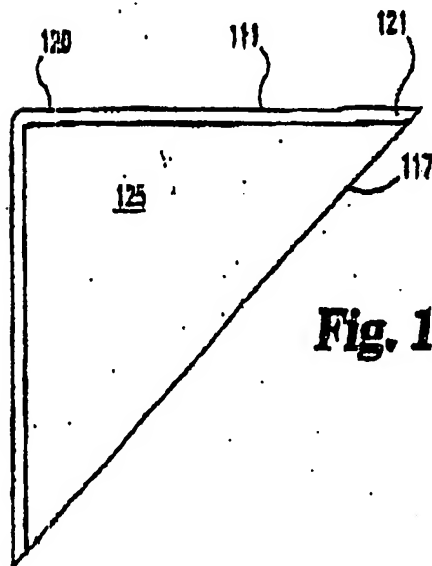
**Fig. 7**



**Fig. 8**



**Fig. 9**



**Fig. 10**



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application: )  
Mark A. Stansbury ) Before the Examiner  
Serial No. 10/669,829 )  
Filed September 24, 2003 ) Group Art Unit 3632  
FURNACE MOUNT AND METHOD )  
OF INSTALLATION ) Our Ref.: 27028-5


DECLARATION OF MARK KEY

I, Mark Key, hereby swear and affirm as follows:

1. I am an employee of NSA, LLC (hereinafter NSA) of Greenwood, Indiana. NSA is the owner of U. S. Patent Application No. 10/669,829 (hereinafter STANSBURY APPLICATION) by assignment from the inventor Mark Stansbury.
2. Lennox Industries-North American Parts Center of 4301 121<sup>st</sup> Street, Urbandale, Iowa 50323 has adopted the Furnace Mounting Block set forth figures 5-10 of the STANSBURY APPLICATION as a recognized part for installation of their furnaces. Lennox Industries-North American Parts Center has associated their own part stocking number 98X19 with this item (As evidenced by attached exhibit), which corresponds to this Furnace Mounting Block of figures 5-10 of the STANSBURY APPLICATION.
3. I, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, declare

that the facts set forth in the Declaration are true; all statements made of my own knowledge are true; and all statements made on information are believed to be true.

Date: 2/10/04

By:   
Mark Key

Material Chart Overview

10/21

100 Eds Data System Help

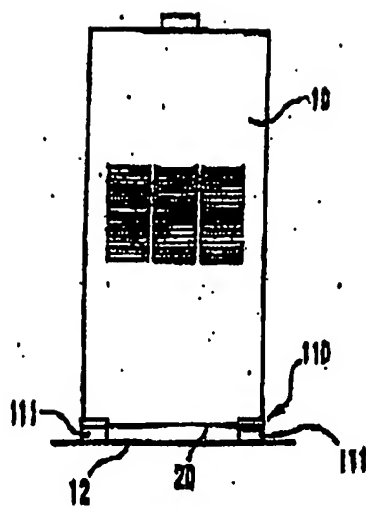
Choose ☒ Stock Requirements ☐ Plant Stock ☐ Avail. Overview ☐ Other Plans

ATP Inquiry Transaction

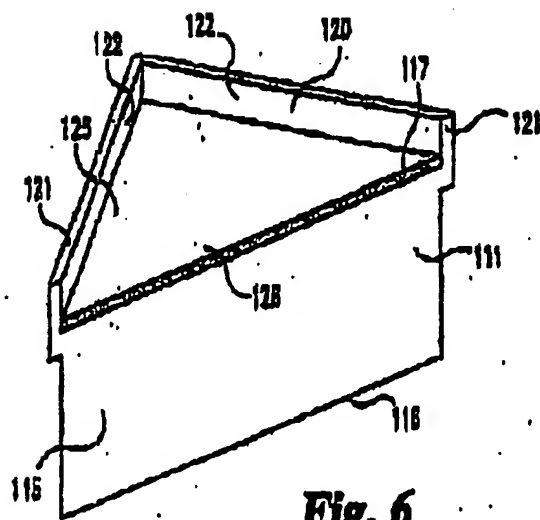
Sales Org. Sales Status  
 LKDA 2A Active  
 LKUS 2A Active

Material	Description	Plant	Onest. Stock	Com. ATP - P. Due	In Transit	MM/PP Status	Plant Name
08X19	DI PD-1 FORMICE MOUN	0100	27	7	0	S	Grade City BDC
		0120	0	0	0	S	Baltimore Warehouse
		0130	72	72	0	S	Richmond Warehouse
		0145	0	0	0	H	Cleveland Warehouse
		0220	0	0	0	H	Doc Mines Warehouse
		0525	44	44	0	H	Portland BDC
		0100	100	100	0	S	Brampton BDC
		0101	10	10	0	S	Scarborough Warehouse
		0102	70	70	0	H	Hamilton Warehouse
		0103	72	72	0	S	Kitchener Warehouse
		0104	32	32	0	S	Dartmouth Warehouse
		0110	70	70	0	S	Montreal Warehouse
		0115	00	00	0	S	Ottawa Warehouse
		0120	22	22	0	S	London Warehouse
		0200	22	22	0	S	Calgary BDC
		0205	4	4	0	S	Winnipeg Warehouse
		0210	30	10	0	S	Saskatoon Warehouse
		0215	54	54	0	S	Edmonton Warehouse
		0220	52	52	0	S	Vancouver Warehouse
		0225	20	20	0	S	

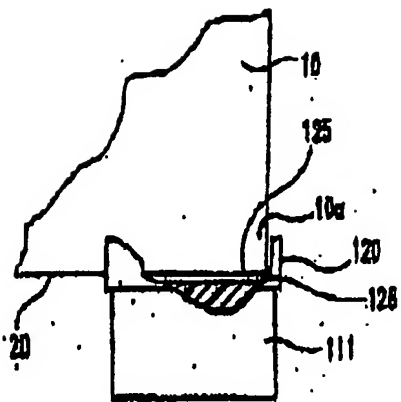
100(17)(000) - company DVA: 144



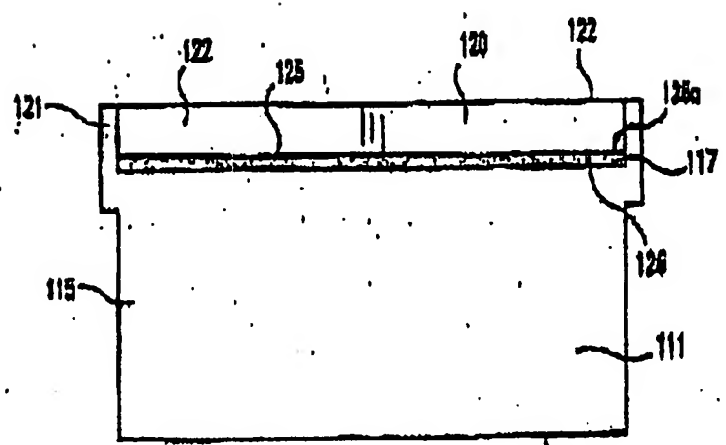
**Fig. 5**



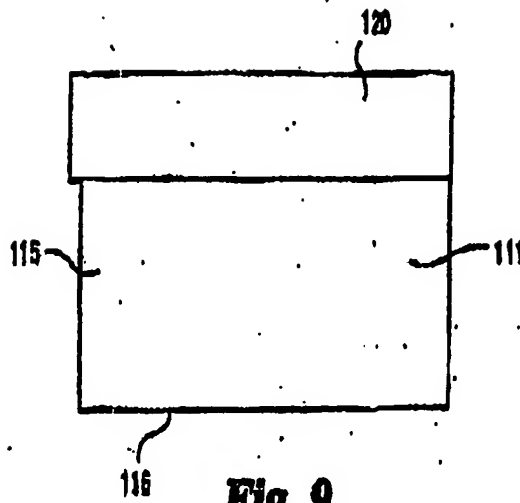
**Fig. 6**



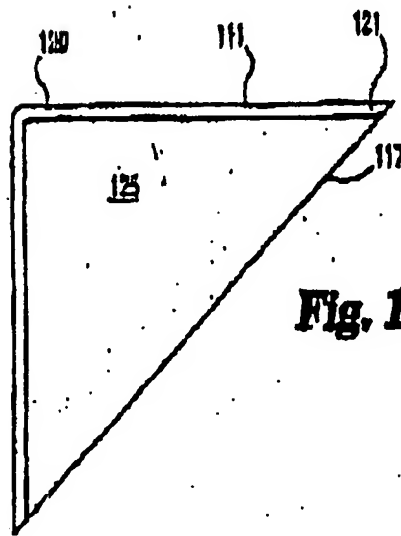
**Fig. 7**



**Fig. 8**



**Fig. 9**



**Fig. 10**

**RELATED PROCEEDING APPENDIX**

No information.

**This Page is Inserted by IFW Indexing and Scanning  
Operations and is not part of the Official Record**

**BEST AVAILABLE IMAGES**

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images include but are not limited to the items checked:

- ☐ BLACK BORDERS
- ☒ IMAGE CUT OFF AT TOP, BOTTOM OR SIDES
- ☒ FADED TEXT OR DRAWING
- ☐ BLURRED OR ILLEGIBLE TEXT OR DRAWING
- ☐ SKEWED/SLANTED IMAGES
- ☐ COLOR OR BLACK AND WHITE PHOTOGRAPHS
- ☐ GRAY SCALE DOCUMENTS
- ☒ LINES OR MARKS ON ORIGINAL DOCUMENT
- ☐ REFERENCE(S) OR EXHIBIT(S) SUBMITTED ARE POOR QUALITY
- ☐ OTHER: \_\_\_\_\_

**IMAGES ARE BEST AVAILABLE COPY.**

**As rescanning these documents will not correct the image problems checked, please do not report these problems to the IFW Image Problem Mailbox.**